

BOARD OF SUPERVISORS
COUNTY OF YORK
YORKTOWN, VIRGINIA

Ordinance

At a regular meeting of the York County Board of Supervisors held in York Hall, Yorktown, Virginia, on the ____ day of ____, 2005:

Present

Vote

James S. Burgett, Chairman
Walter C. Zaremba, Vice-Chairman
Sheila S. Noll
Kenneth L. Bowman
Thomas G. Shepperd, Jr.

On motion of _____, which carried ____, the following ordinance was adopted:

AN ORDINANCE TO APPROVE APPLICATION NO. ZT-92-05, WHICH PROPOSES AMENDMENT OF THE YORK COUNTY ZONING ORDINANCE (CHAPTER 24.1, YORK COUNTY CODE) BY REVISING, ADDING AND DELETING VARIOUS SECTIONS TO UPDATE, CLARIFY AND SUPPLEMENT THE PROVISIONS IN ACCORDANCE WITH GOOD ZONING PRACTICE AND WHICH ALSO PROPOSES THE ESTABLISHMENT OF A NEW CHAPTER—CHAPTER 23.2—OF THE YORK COUNTY CODE TO CONTAIN THE COUNTY'S CHESAPEAKE BAY PRESERVATION AREA REGULATIONS

WHEREAS, the York County Board of Supervisors has sponsored Application No. ZT-92-05 to allow consideration of various amendments intended to update, clarify and supplement the provisions of the Zoning Ordinance in accordance with good zoning practice; and

WHEREAS, said application also proposes that the Chesapeake Bay Preservation Area regulations be removed from the Zoning Ordinance and established as a separate stand-alone chapter of the York County Code

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application and has recommended approval;

WHEREAS, the Board of Supervisors has carefully considered the public comments and recommendations of the Planning Commission and staff with respect to this application;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the ____ day of _____, 2005, that Application No. ZT-92-05 be, and it hereby is, approved to amend the York County Zoning Ordinance (Chapter 24.1, York County Code) to read as follows:

ARTICLE I. IN GENERAL

Sec. 24.1-104. Definitions.

Catering kitchen. A facility in which food is prepared and cooked in quantity and then transported from the premises by the caterer for off-premises serving and consumption at special events, receptions, parties or similar activities.

Child care center. A facility operated for the purpose of providing care, protection and guidance to a group of children separated from their parents or guardians during a part of the day only, and operated in accordance with the provisions of section 63.2-1700~~63.1-195~~, et seq., Code of Virginia.

Dwelling, modular. A type of single-family detached dwelling unit which is constructed in units which are movable, but not designed for regular transportation on highways, and which are designed to be constructed on and supported by a permanent foundation and not by a chassis (i.e., supporting rails) permanently attached to the structure and which meet the requirements of the Virginia Uniform Statewide Building Code. Structures constructed in accordance with the terms of the Virginia Industrialized Building Safety Regulations shall not be deemed “modular units” if they include a permanently attached chassis (i.e., supporting rails). If such chassis system can be removed and the unit can be supported by a permanent foundation meeting the requirements of the Virginia Uniform Statewide Building Code, then it shall be deemed a “modular unit.”

Dwelling, multi-family. A building or building arrangement consisting of two (2) or more dwelling units on a single lot.

Dwelling unit. A single unit of one or more rooms providing complete, independent living facilities for one family, including permanent provisions for living, sleeping, cooking, and sanitation.

< *Dwelling, accessory unit/ apartment.* A separate and complete housekeeping unit which provides complete and independent living, sleeping, and sanitation

facilities, and which may or may not include permanent cooking facilities. Such unit may be contained within or outside of a primary residence but is clearly secondary to a primary single-family dwelling located on the same lot. When in a detached structure, the presence of a habitable room or rooms, as defined by the Virginia Uniform Statewide Building Code, including a living area and a bathroom with sink, toilet and tub or shower shall be considered to constitute an accessory apartment. When such habitable space is a part of the principal structure on the property, the presence of an independent entrance, a bathroom with sink, toilet, and tub/shower, and physical separation (by walls or floors) from the principal residence shall be deemed to constitute an accessory apartment.

< *Dwelling, single-family attached.* A row or combination of at least two one-family dwelling units constructed in accordance with the terms of the Virginia Uniform Statewide Building Code, with each unit having separate outside access, each unit separated from any other unit by one or more common fire-resistant walls, and each unit located on a separate lot. The term "single-family attached" includes the following types of dwellings:

- *Duplex.* A one-family dwelling unit attached to one other one-family dwelling unit by a common vertical fire-resistant wall with each dwelling unit located on a separate lot.
- *Multiplex.* A one-family dwelling unit in a combination (back-to-back, side-to-side, or back-to-side) of at least three such units with each unit having at least two exterior walls, each unit separated from any other by common fire-resistant walls, and each unit located on a separate lot.
- *Townhouse.* A type of multiplex unit, in a row of at least three such units, with each having its own front and rear or side access to the outside, each unit separated from any other by common fire-resistant walls, and each unit located on a separate lot.

< *Dwelling, single-family detached.* A one-family dwelling unit which is surrounded on all sides by yards or other open space located on the same lot and which is not attached to any other dwelling by any means. Such units shall be constructed in accordance with the terms of the Virginia Uniform Statewide Building Code and may include "modular units" if consistent with the definition and standards contained in this chapter.

Lot. A unit, division, or piece of land, generally created as a result of the subdivision of property. The term is synonymous with plot, parcel, premises, and site. ~~For the purposes of development, a lot may consist of an individual lot of record, or combinations of adjacent recoded lots or portions of lots of the same ownership.~~

Manufactured home. A structure subject to federal regulatory standards (42 U.S.C. section 5401, the National Manufactured Home Construction and Safety Standards Act), which is transportable in one (1) or more sections; is eight feet (8') or more in width with a body forty feet (40') or more in length in traveling mode, or is three hundred twenty (320) or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. For the purposes of this chapter, a manufactured home shall not be deemed a single-family detached dwelling or a modular dwelling unit. Any transportable factory-built dwelling unit constructed prior to the enactment of Home Construction and Safety Standards Act of 1974 or which does not meet such standards together with any manufactured home which has been modified to the extent that it is no longer capable of use for residential occupancy purposes or which has had factory installed appliances removed rendering the unit uninhabitable, shall be deemed a trailer for the purposes of this chapter.

Mixed-use development. Property that incorporates two or more different principal uses (typically residential and commercial) within a single planned development under a single master plan.

Nightclub. An establishment that offers alcoholic beverages at a bar or tables and which may also include a dance floor and/or periodic live or recorded music or entertainment and which is open for business after 11:00 p.m. This term shall also include restaurants and commercial reception halls if they are open for business after 11:00 p.m., serve alcoholic beverages at a bar or at tables, and have a dance floor and/or live or recorded music or entertainment.

Open space, common. Open space within or related to a development, not a part of individually owned lots or dedicated for general public use, but designed and intended for the common ownership, use and enjoyment of all the residents or property owners of the development.

Seasonal occupancy. Occupancy of a dwelling unit, timeshare unit, or other accommodation for a limited period of time, typically not exceeding several weeks per calendar year. The occupancy may be in several intervals throughout the year, or in a single block of time, but in no event shall it extend for a period long enough to establish "legal residency" under applicable tax codes or to require registration of children for school attendance.

Street. An established legal right-of-way or platted right-of-way dedicated for the use of the general public, or portions thereof, either accepted by the department of transportation, or approved under the terms of the zoning ordinance as a private transportation system, or existing as an unimproved right-of-way serving multiple properties by easements owned in common or by other legally enforceable rights of pedestrian and vehicular access benefiting the adjoining properties and having a name officially assigned by the County. A street shall provide vehicular and pedestrian access to property for all purposes of travel, transportation and parking to which it is adopted, devoted, or dedicated. The term is synonymous with road, lane, drive, avenue, highway, roadway, thoroughfare, or any other term of like or common meaning. For the purposes of this chapter, there shall be two (2) types of streets:

Street, private. Any street created under the terms of this chapter, which is not a component of the state primary or secondary system, and which is guaranteed to be maintained by a properly constituted association of property owners from the development of which such street is an approved part. In addition, the term “private street” shall include those unimproved rights-of-way serving multiple properties by easements owned in common or by other legally enforceable rights of pedestrian and vehicular access benefiting the adjoining properties and having a name officially assigned by the County (and sometimes referred to as “dirt streets).

Street, public. A platted street, dedicated for the use of the general public for all purposes of travel, transportation or parking unless specifically noted otherwise.

Timeshare / Interval Ownership. A facility in which individual suites or living units are sold in increments of time (e.g., weeks or months) to individual owners for the purpose of transient or seasonal occupancy. Under this arrangement, the exclusive right of use, possession, or occupancy circulates among various owners or lessees thereof in accordance with a fixed time schedule, which may vary within certain specified time periods, on a periodically recurring basis.

Sec. 24.1-108. Filing fees.

(a) *Application fees.*

- (1) An application fee shall be charged to offset the cost of reviewing plans, processing applications, making inspections, issuing permits, advertising public notices and other expenses incident to the administration of this chapter or to the filing or processing of any amendment to the zoning ordinance, special use permit or zoning appeals. Such fees shall also include charges for readvertising and re-mailing notices when necessitated by the amendment, postponement, or modification of an application. Filing fees shall be paid upon submission of an application and shall be as set forth in the following schedule:

TYPE OF APPLICATION	FEE
a. Amendment to the zoning ordinance, except planned development applications	\$450.00 plus \$5.00/acre [\$12.50/ha] \$600. plus \$10 for every acre in excess of 5, but not to exceed a maximum fee of \$2,000.
b. Application for planned development approval	
(1) Phase I submission (overall concept)	\$450 plus \$10.00/acre [\$25.00/ha] \$600. plus \$10 for every acre in excess of 5, but not to exceed a maximum fee of \$2,000.
(2) Phase II submission (detailed plan)	(Refer to site plan or subdivision plat fees)
c. Limited deviations from approved planned developments	\$100.00
d. Special use permits and amendments thereto: 1. <u>Applications for home occupations and accessory apartments</u> 2. <u>All other types of Special Use Permit applications</u>	\$300.00 \$400 \$450. plus \$10 for every acre over 5, but not to exceed a maximum fee of \$1,000
e. Minor enlargement or expansion of a conforming special use under provisions of section 24.1-115(d)(2)	\$100.00
f. Special exception to height limitations as provided in section 24.1-231	\$150.00 <u>\$200</u>
g. Special exception to allow expansion of a nonconforming use as provided in section 24.1-801	\$450.00 <u>\$200</u>
h. Other special exceptions	\$200.00
i. Appeal to the board of zoning appeals	\$150.00 <u>\$250</u>
j. Amendment, modification or postponement of rezoning or use permit application requiring readvertisement and renotification by both the commission and board	\$200.00 <u>\$300</u>
l. Amendment, modification, or postponement of rezoning, use permit or variance application requiring readvertisement and renotification by the commission, board, or board of zoning appeals	\$100.00 <u>\$200</u>

- (2) No application shall be received or shall be deemed to have been filed until accompanied by the required filing fee.
- (3) Application fees shall not be refundable in the case of appeals to the board of zoning appeals. In the case of withdrawal of applications for zoning amendments, use permits or planned development approval, exemptions or exceptions, refunds of application fees shall be according to the following schedule:
- a. Written request received prior to ordering the publication of the first legal notice for the commission public hearing: fifty percent (50%) of fee refundable.

- b. Written request received at least two (2) working days prior to the date scheduled for final action by the commission: twenty-five percent (25%) of fee refundable.
- c. Written request received less than two (2) working days prior to the date of final action by the commission: No refund.

All requests for withdrawal must be in writing, signed by the applicant, and be submitted to the zoning administrator.

- (4) The above described fees shall be waived for any application submitted by any board, commission, agency or department of the county.

(b) *Site plan review fees.*

- (1) Filing fees shall be paid at the time a site plan is first presented for formal review and shall be in accordance with the following schedule:
 - a. Single-family attached or multi-family residential proposals shall pay a filing fee of one hundred fifty dollars (\$150.00) plus fifteen dollars (\$15.00) per dwelling unit (maximum fee two thousand five hundred dollars (\$2,500.00)) plus forty-five cents (\$0.45) per one thousand (1,000) square feet ~~[\$0.50 per 100m²]~~ of total disturbed area.
 - b. Commercial, industrial, institutional and other types of uses and activities subject to site plan approval shall pay a filing fee of one hundred fifty dollars (\$150.00) plus three dollars (\$3.00) ~~per~~ per one thousand (1,000) square feet ~~[\$3.25 per 100m²]~~ of gross floor area of all structures (maximum fee two thousand five hundred dollars (\$2,500.00)) plus forty-five cents (\$0.45) per one thousand (1,000) square feet ~~[\$0.50 per 100m²]~~ of total disturbed area.
- (2) Amendments to approved site plans shall pay a filing fee of one hundred dollars (\$100.00) unless the zoning administrator waives the fee because the need for the amendment arises from an error or oversight by a federal, state, or local agency.

- (c) *Site inspection fee.* Prior to the issuance of zoning certificates or the commencement of development or activities authorized by an approved site plan, the developer of a project shall be responsible for payment of a non-refundable inspection fee based on the total amount of improved area on the site. For the purposes of this section, improved area shall be computed by adding the total area covered by structures, buildings, parking areas, driveways, sidewalks and other impervious surfaces on the site. The fee shall be fifty dollars (\$50.00) plus one dollar (\$1.00) per one thousand (1,000) square feet ~~[\$1.10 per 100m²]~~ of improved area up to a maximum fee of one thousand five-hundred dollars (\$1,500.00).

- (d) *Variable site development fees.* In addition to the fees enumerated above, the developer shall be required to pay other fees as may be applicable to the proposed development. Depending upon the needs of the development and the desire of the developer that the county supply or arrange for certain signs, features or devices, these fees may include payments for construction, fabrication, installation and maintenance of control and warning signs and signals, streetlights, street identification signs, and other similar features, installations, or devices. The actual fees for such features, installations, devices, or maintenance thereof, shall be established by the board and published by the county from time to time and shall reflect, as closely as possible, actual costs including labor. The official fee schedule shall be available for review and copying from the zoning administrator during normal working hours.
- (e) *County exempt from fees and surety.* The county shall be exempt from all fees and surety requirements established by this chapter.

Sec. 24.1-117. Certain utilities and services exempt.

- (a) Except as specifically noted below, certain utilities and services shall be exempt from the other regulations of this chapter. Specifically, the following facilities and equipment shall be so exempted:
 - (1) Traffic signals, fire hydrants, alarm or emergency devices, telephone booths and pedestals, mailboxes;
 - (2) Wires, poles, pipes, meters and similar facilities which provide service connections between primary distribution lines or mains and individual residential, commercial or industrial customers, or which are an integral and accessory part of a subdivision or development;
 - (3) Sewage pump and lift stations, water storage and pumping facilities, communication switching and relay facilities, and similar utilities when approved by the zoning administrator as a necessary and integral component of a public utility system. Such facilities shall be subject to the terms of article V and the buffering/screening provisions of section 24.1-262(e).
 - (4) Railroad tracks, signals, bridges and similar facilities and equipment located on a railroad right-of-way, and maintenance and repair work on such facilities and equipment.
- (b) Any utility substation, treatment plant, generating plant, or similar facility which is not within the normal scope of distribution facilities referred to above shall be authorized only by special use permit.

ARTICLE II. GENERAL REGULATIONS

DIVISION 1. GENERAL LOT REGULATIONS

Sec. 24.1-201. Subdivision and consolidation of lots.

(a) Each lot created subsequent to the adoption or amendment of this chapter shall comply with all area and dimensional regulations, as amended, for the district in which located and with all applicable provisions of the subdivision ordinance. Lots shall not be created in such a manner as to cause any existing structures to be in conflict with setback and yard requirements of the district in which located.

(b) Where a development is proposed to encompass and be situated on multiple existing lots under the same ownership, the lot lines separating said lots shall be vacated through the preparation and recordation of a survey plat, prepared in accordance with all applicable procedures and requirements. The recordation of such plat shall be a prerequisite for the issuance of land disturbing permits and/or building permits for the proposed development project. In the event the development proposed can stand alone on each of the lots without a principal use / accessory use dependency and in compliance with all applicable setback requirements, then vacation of the lot lines shall not be required.

Sec. 24.1-203. Computation of buildable or developable area.

In accordance with the comprehensive plan, certain land areas shall not be developed at all and others may only be credited partially toward buildable or developable area. These shall be determined on a case-by-case basis utilizing the percentages shown in the table below where:

The "*Density*" column contains the percentage of the specified land type which may be included in calculations of net developable density;

The "*Lot size*" column contains the percentage of the specific land type which may be included to meet minimum lot size requirements; and

The "*Platted*" column contains the percentage of the specified land type which may be platted as part of individual lots for transfer to a party **other** than a property owners' association or similar entity such as a land conservation trust.

In all cases, the zoning administrator shall be satisfied that each and every lot platted contains a sufficient building site for the future use of the property based on its zoning classification at the time the plat is submitted.

Land Area Type		Density	Lot Size	Platted
(a)	Existing public or private street or highway right-of-way	0%	0%	0%
(b)	Areas required for dedication to eliminate substandard rights-of-way	50%	0%	0%
(c)	Existing and proposed public or private utility easements greater than twenty feet (20') (6m) in width	0%	0%	100%
(d)	Existing and proposed public or private utility easements twenty feet (20') (6m) and less in width	100%	100%	100%
(e)	Existing and proposed easements providing public rights of access or which access community facilities	100%	50%	100%
(f)	Areas four feet (4') and less above mean sea level as determined by NGVD 1929 <u>USGS datum (National Geodetic Vertical Datum)</u>	0%	0%	100%
(g)	Areas of existing ponds, lakes, or other impounded water bodies measured to the mean high water level at the natural outfall or emergency spillway	0%	0%	100% ⁽¹⁾
(h)	New stormwater management ponds or basins required to be constructed to serve a development project	100%	0%	0% ⁽²⁾
(i)	Area in excess of one-tenth <u>one-third</u> acre of USEPA/Corps of Engineers jurisdictional non-tidal wetlands ⁽³⁾	50%	0%	100% ⁽¹⁾
(j)	Naturally occurring (predevelopment) slopes:			
(1)	less than twenty percent (20%)	100%	100%	100%
(2)	twenty (20%), but less than thirty percent (30%)	75%	50% ⁽⁴⁾	100%
(3)	thirty percent (30%) or greater	50%	25% ⁽⁴⁾	100%
⁽¹⁾ When platted, a conservation easement running to the benefit of the County or other entity deemed appropriate by the zoning administrator shall be provided.				
⁽²⁾ This does not preclude onsite stormwater management entirely within the bounds of a single lot where no subdivision is proposed.				
⁽³⁾ Jurisdiction is determined by the U.S. Army Corps of Engineers, not by York County. No reduction shall be required for upland areas which are Required as mitigation areas under permits issued by the Corps of Engineers. No reduction shall be required for jurisdictional areas within which filing is permitted by the Corps of Engineers.				
⁽⁴⁾ 85% on lots two (2) acres (1 ha) and larger				

DIVISION 2. GENERAL YARD REGULATIONS

Sec. 24.1-222. Yard requirements in built up areas.

Where fifty percent (50%) or more of the lots within a block are occupied by existing buildings and the average yards (front, rear, or side) of the existing principal buildings are less than that required by this chapter, the average so established may be taken in lieu of that which is otherwise required, provided however that in no case shall a front

yard depth so determined be less than twenty feet (20')~~[6m]~~, or less than the setback line described on a recorded subdivision plat. Any front setback so determined shall be increased as necessary to accommodate any right-of-way reservation area required pursuant to the terms of section 24.1-223. In the case of side or rear yards, no side yard shall be less than ten feet (10')~~[3m]~~ nor shall a rear yard be less than twenty feet (20')~~[6m]~~. For the purpose of this calculation, only those lots on the same side of the street on either side of the lot in question for a distance of six hundred feet (600')~~[180m]~~ or to the nearest street intersection, whichever is less, shall be included within the calculation of the average yard unless the zoning administrator shall determine, in writing, that a greater or lesser distance is appropriate based on clearly discernible development patterns and community character.

Sec. 24.1-223. Front yard requirements adjacent to substandard rights-of-way.

In the event a property being developed abuts a public or private street which has a right-of-way width which is substandard under the standards of the Virginia Department of Transportation or less than the width necessary to accommodate future road improvements based on the comprehensive plan of the county or the plans of the Virginia Department of Transportation or Hampton Roads Metropolitan Planning Organization, the normally required front yard and front perimeter landscape yard depths for said development shall be increased by an amount which is equal to one-half (.5) of the total right-of-way deficiency. The area so added shall be reserved for future roadway construction and no structures shall be erected within it in anticipation of the area being incorporated into the existing street right-of-way.

Sec. 24.1-231. Exemptions from height regulations.

- (a) The zoning administrator may grant administrative exemptions to the district height regulations to permit reasonable increases in height for the following situations:
 - (1) Church spires, belfries, cupolas, monuments, chimneys, water towers, fire towers, cooling towers, radio and television antennas may be permitted to exceed the height stipulated in the district regulations by no more than twenty-five percent (25%) if attached to a building, or to a maximum of one hundred feet (100')~~[30m]~~ if free-standing. This shall not apply to dish antennas, signs and flagpoles, or other similar structures. The zoning administrator shall determine whether a proposed height increase is reasonable and serves a function beyond merely drawing attention to the structure.
 - (2) Parapet walls or similar structures may exceed the maximum height limit by not more than eight feet (8')~~[2.5m]~~. Such walls or structures shall not be used as, for, or to support signs. Pitched roofs on structures located in commercial and industrial zoning districts may exceed the maximum

height limit by up to twenty-five percent (25%) provided that the zoning administrator determines that the actual number of building floors with habitable space is no greater than would be allowed with a flat roofed structure and provided further that the fire chief has reviewed and approved the proposed structure and site design to ensure appropriate accessibility for effective fire containment and control, including specifically the location of fire lanes to facilitate the positioning of fire-fighting apparatus and equipment during an emergency response.

- (3) Except as noted above, no accessory building or structure shall exceed the maximum height limitation established for the district or the height of the structure to which it is accessory, whichever is less, provided, however, that buildings which are accessory to a single-story building may be constructed to a maximum height not exceeding 1.25 times the height of the principal building. In cases where this is permitted, the accessory building shall be separated from the principal building by a distance of at least twenty feet (20')~~[6m]~~.
- (4) Buildings and structures used in conjunction with a bona fide agricultural use in an RC or RR district shall be exempt from the height limits specified for those districts. This exemption shall not apply to buildings constructed in conjunction with horsekeeping activities as a residential accessory use.
- (b) The board, after conducting a duly advertised public hearing, may authorize exemptions to the height regulations which exceed those which may be authorized administratively. In granting exemptions, the board may impose reasonable conditions. No exemption shall be granted which violates the terms of the airport safety management overlay district.

Sec. 24.1-245. Greenbelts.

- (a) Greenbelts shall be provided contiguous to the street right-of-way along the following roads in accordance with the specified minimum widths:
 - (1) Bypass Road (Route 60) - 35 feet
 - (2) Denbigh Boulevard (Route 173) - 35 feet
 - (3) Fort Eustis Boulevard (Route 105), including the extension to Old York-Hampton Highway -35 feet
 - (4) Hampton Highway (Route 134) - 35 feet

- (5) Merrimac Trail (Route 143) between I-64 at Exit 230 (Camp Peary/Colonial Williamsburg) and Queen Creek - 45 feet
- (6) Penniman Road (Route 641) between the Colonial Parkway and Route 199 - 45 feet
- (7) Route 132 - 45 feet
- (8) Route 199 - 45 feet
- (9) Victory Boulevard (Route 171) - 35 feet
- (10) East Rochambeau Drive from Oaktree Road (west) intersection to Mooretown Road and from Mooretown Road to dead end - 45 feet
- (11) Mooretown Road from Lightfoot Road to a point 1,400 feet south of its intersection with Clark Lane - 45 feet
- (12) Mooretown Road from Airport Road to Waller Mill Road - 45 feet
- (13) Lightfoot Road from Route 60 to Rochambeau Drive (west) - 45 feet, except where the parcel also has frontage on Route 199, in which case the Lightfoot Road greenbelt shall be 35 feet.
- (14) Rochambeau Drive (west) from Lightfoot Road to James City County line - 45 feet

The 10-foot perimeter landscape strip normally required at the rear of buildings by Section 24-244(b) of this Chapter shall not be required on parcels subject to the 45-foot Greenbelt provision.

- (b) Along the Colonial Parkway, a greenbelt of no less than three hundred feet (300') from the nearest edge of the roadway shall be provided. This may include property owned by the National Park Service.
- (c) The greenbelt shall be left in an undisturbed natural state, unless the board, after conducting a duly advertised public hearing, authorizes clearing or development. Unvegetated or under-vegetated greenbelts shall be landscaped in accordance with the following planting requirements as if they were front yards:

35 foot Greenbelt	70 landscape credits per 100 linear feet
45 foot Greenbelt	90 landscape credits per 100 linear feet

Normally required front yard landscape credits may be counted toward these requirements. Nothing in this section however, shall be interpreted to preclude the following activities within greenbelts: (1) the planting of additional trees, shrubs or groundcovers, or the maintenance thereof; (2) the construction and maintenance of bicycle and pedestrian facilities; (3) the establishment, construc-

tion, and maintenance of necessary entrances to the site; (4) limited clearing of underbrush, nuisance plants, dead or diseased plants/trees, or limbs/understory necessary to provide reasonable sight lines to a commercial establishment; or (5) the installation of utilities necessary to serve the development provided that the crossing of the greenbelt minimizes disturbance to the greatest extent possible; or (6) the installation of signs which do not require disturbance of existing trees, except to the extent necessary to open limited sight lines for the signs. All of these may occur under the terms of an approved plan.

- (d) If approved, modifications shall preserve the feeling and sense of the natural character of the greenbelt as it currently exists and application for modifications shall contain pre-development and post-development renderings. In the event the board approves disturbance of a greenbelt it may require the area to be re-landscaped at the ratios specified for unvegetated buffers, or at such other ratios as it may deem appropriate. The cost of advertising and conducting public hearings to consider modifications shall be borne by the developer making the request.
- (e) Greenbelts shall be open space that is owned and maintained by a property owners' association, conservation land trust, or equivalent entity. Alternatively, a landscape preservation easement granted to the county or an appropriate land trust may be utilized.
- (f) Commercial properties fronting greenbelt roads shall be permitted to open limited sight lines which allow indirect views of buildings, but generally block views of parking. Such sight line clearing shall be shown on the landscape plan for the site which shall include both plan and perspective views.
- (g) For purposes of calculating residential densities, the area encompassed by the greenbelt shall be considered as developable acreage in such computations.

DIVISION 6. SITE DESIGN STANDARDS

Sec. 24.1-260. General site design standards.

- (a) No more land shall be disturbed than is reasonably necessary to provide for the desired use or development. All site plans shall clearly delineate land areas to be disturbed and those which shall remain undisturbed.
- (b) Indigenous vegetation shall be preserved to the maximum extent possible consistent with the proposed use and development. Any proposal to clear cut a property in the absence of an approved development plan shall be deemed to constitute a "forestry" operation and shall be permitted only in such districts and under such procedures as are set forth in articles 3 and 4 of this chapter or only when in accordance with the provisions of Section 10-14(f) of the York County Code..

- (c) Best management practices shall be applied to all land disturbing activities regulated by this chapter.
- (d) Natural areas with a biodiversity ranking of B1 (outstanding significance), B2 (very high significance), or B3 (high significance), shall be protected through a conservation easement or other development restriction encompassing the area within the secondary ecological boundary as defined by Technical Report 93-4, by the Division of Natural Heritage, Virginia Department of Conservation and Recreation, as may be amended from time to time. Biodiversity rankings between B1 and B3 indicate natural resources of global or state significance. For areas with a B4 or B5 ranking, necessary federal and state permit approvals required under the Federal Clean Water Act, Endangered Species Act, Chesapeake Bay Preservation Ordinance, or state and county wetlands laws and regulations shall suffice as proper environmental authorization.
- (ed) Land development proposals shall be designed to minimize impervious cover consistent with the particular use proposed.
- (fe) New construction on existing slopes in excess of thirty percent (30%) shall be prohibited unless the zoning administrator, after reviewing a detailed soils, geology, and hydrology survey prepared in accordance with acceptable engineering standards and submitted by the applicant, determines that such construction can be accommodated without creating or exacerbating erosion, seepage, or nutrient transport problems. Such survey shall include cross-sections of existing and proposed slopes and detailed plans of drainage devices. Grading such slopes to less than thirty percent (30%) shall also be prohibited unless the zoning administrator determines that such grading is necessary to the overall development; however, in no case shall such grading be used to permit new construction which otherwise would have been prohibited.
- (gf) Except as exempted below, all outdoor lighting in excess of 3,000 initial lumens associated with land use and development proposals, whether new uses or changes and modifications in existing uses, shall be designed, installed and maintained to prevent unreasonable or objectionable glare onto adjacent rights-of-way and properties and shall incorporate the use of “full cut-off” luminaires/fixtures. The lighting standards established by the Illuminating Engineering Society of North America (IESNA) shall be used to determine the appropriate lighting fixture and luminaires for such uses. High-pressure sodium or metal halide lights shall be the preferred type of exterior site lighting. The use of Mercury vapor lights shall be discouraged in any exterior lighting applications, with the exception of under-canopy lighting for gasoline pump islands, bank or other drive-thru or drive-in facilities.

The following outdoor lighting applications shall be exempt from these requirements:

- (1) Construction, agricultural, emergency or holiday decorative lighting of a temporary nature.
- (2) Lighting of the United States of America, Commonwealth of Virginia, or York County flags and other non-commercial flags.
- (3) Security lighting controlled by sensors which provide illumination for fifteen (15) minutes or less.
- (4) The replacement of an inoperable lamp or component which is in a luminaire that was installed prior to the effective date of this section.
- (5) The replacement of a failed or damaged luminaire which is one of a matching group serving a common function.

In addition to the above-noted exemptions, the Zoning Administrator may approve a modification of the full cut-off luminaire requirements in either of the following circumstances:

- Upon finding that alternatives proposed by the owner would satisfy the purposes of these outdoor lighting regulations at least to an equivalent degree; or
- Upon finding that the outdoor luminaire or system of outdoor luminaires required for a baseball, softball, football, soccer or other athletic field cannot reasonably comply with the standard and provide sufficient illumination of the field for its safe use.

Sec. 24.1-261. Public service facility standards.

- (a) *Refuse and recyclables collection.* Dumpsters, or an alternate method of collection for recyclables and for nonrecyclable refuse approved by the zoning administrator, shall be required for mobile home parks and for multi-family, commercial and industrial developments. The following standards shall apply:
 - (1) Dumpsters or other approved collection receptacles shall be located on a site so that service vehicles will have convenient and unobstructed access to them. The location shall be such that encroachment by service vehicles upon bicycle and pedestrian ways, parking spaces, or vehicular circulation drives will be minimized. Dumpsters shall not be located closer than fifty feet (50') ~~[15m]~~ to any residential structure.
 - (2) Dumpsters or other approved collection receptacles shall be screened from view on at least three (3) sides with landscaping, shrubbery, or building walls supplemented where necessary by wooden or masonry fencing except where the zoning administrator determines that such screening is not necessary because other screening, such as buildings,

fences or landscaping, is in place. A gated enclosure providing screening on four sides shall be required wherever necessary to ensure that the dumpster is not visible from an adjoining public right-of-way.

- (3) Where dumpsters are to be utilized, dumpster pads, constructed in accordance with all applicable health department standards for construction and drainage, shall be provided.

DIVISION 7. ACCESSORY USES

Sec. 24.1-270. Accessory uses permitted.

Unless otherwise provided herein, accessory uses and structures shall be permitted in any zoning district, but only in connection with, incidental to, and on the same lot with a principal use or structure which is lawfully permitted within such district.

Sec. 24.1-271. Accessory uses permitted in conjunction with residential uses.

The following accessory uses shall be permitted in conjunction with residential uses. No accessory use, activity, or structure, except fences, shall be constructed or conducted until the principal use of the lot has commenced, or the construction of the principal building/structure has commenced and is thereafter diligently and continuously pursued to completion:

- (a) Antenna structures including guy wires for radio, television, and other noncommercial communication purposes subject to the following provisions:
 - (1) All locational standards and setbacks applicable to accessory structures shall be observed. Guy wires shall not be permitted in the front setback areas.
 - (2) Antennas in excess of the height requirements specified in division 3 of this article shall be permitted only by the board after conducting a duly advertised public hearing. The measurement of height shall include both the antenna, any ancillary antennae, and any support structure.
 - (3) The above provisions notwithstanding, dish antennas shall be subject to the following standards:
 - a. Dish antennae shall not exceed twelve feet (12')[4m] in diameter and fifteen feet (15')[4.5m] in height.
 - b. In residential districts, dish antennae larger than twenty-four inches (24")[650] in diameter shall be permitted in rear yards only. No

part of a dish antenna shall be closer than five feet (5') ~~[1.5m]~~ to any lot line. Dish antennae larger than twenty-four inches (24") ~~[650m]~~ in diameter shall not be permitted on the roofs of residential structures or structures accessory thereto.

- c. All dish antennae and the construction and installation thereof shall conform with applicable requirements of the Uniform Statewide Building Code. No dish antenna may be installed on a portable or movable base.
 - d. The above dimensional and location standards notwithstanding, where the zoning administrator determines that a usable satellite signal cannot be obtained by locating or sizing a dish antenna in accordance with such criteria, application may be made to the board, in accordance with the procedures established in article I, for authorization, by use permit, of an alternative placement or size in order to provide for the reception of a usable signal. In its consideration of such applications, the board may impose such conditions as it deems necessary to protect the public health, safety and general welfare and to protect the character of surrounding properties.
- (b) Barns or other structures that are customarily incidental to an agricultural use in the RC or RR districts or when used in conjunction with horsekeeping as permitted in the residential districts.
- (c) Carports, garages, utility sheds, and similar storage facilities customarily associated with residential living. Movable storage boxes, also known as portable on-demand storage units, may be placed temporarily on a residential property for loading or unloading. Such units shall not be placed in a front yard area, except on a driveway and at least twenty (20) feet from the front property line. When placed in a side or rear yard, the boxes shall be located at least five (5) feet from any property line. For the purposes of this section, temporary placement shall mean no more than sixteen (16) consecutive days at a time, and with at least one (1) year between successive placements. Not more than one (1) unit shall be placed on a residential property at a time and if multiple units are used for sequential loading or unloading, the sixteen (16) day limit shall apply to all cumulatively.

The above restrictions notwithstanding, when the principal structure on the property has been made uninhabitable as a result of a natural disaster for which a local state of emergency declaration has been issued or a fire or other damaging event beyond the control of the owner, one or more movable storage boxes may be used for on-site storage purposes exceeding sixteen (16) days while the principal building is undergoing reconstruction/repair. The authorization for such use shall be dependent on issuance of a building permit for the reconstruction/repair of the principal residence and shall expire upon issuance of a Certificate of Occupancy for the principal structure or twelve (12) months from the date

of the event that damaged the structure, whichever occurs first. For good cause shown and to recognize extenuating circumstances, the Zoning Administrator may extend the authorization for as much as an additional 12-month period or until a Certificate of Occupancy is issued, whichever occurs first.

- (d) Child's playhouses, without plumbing.
- (e) Private kennels in the RC or RR districts.
- (f) Doghouses, pens, or similar structures for the housing of not more than four (4) commonly accepted companion animals over the age of six (6) months. The keeping of more than four (4) such animals over the age of six (6) months shall be deemed a private kennel and shall be permitted only in accordance with the requirements for same.
- (g) Beekeeping provided no beehive is closer than fifty feet (50') ~~[15m]~~ to any dwelling, school or church establishment and that the owner provides a supply of water for the bees within fifty feet (50') ~~[15m]~~ of the hive.
- (h) Parking or storage of small cargo or utility trailers, recreational vehicles and similar equipment, including, but not limited to, boats, boat trailers, motor homes, tent trailers and horse vans, and also including commercial vehicles having a carrying capacity of 1-ton or less and used as transportation by the occupant of the dwelling to and from their place of employment, provided that the following requirements are observed:
 - (1) such vehicles or equipment may not be parked or stored in front yards except on the driveway;
 - (2) such vehicles or equipment shall not be used for living, housekeeping or business purposes when parked or stored on the lot, provided however, that when the principal structure on the property has been made uninhabitable as a result of a natural disaster for which a local state of emergency declaration has been issued or a fire or other damaging event beyond the control of the owner, motor homes and recreational vehicles may be used for temporary residential occupancy during the time of reconstruction/repair of the principal dwelling. The authorization for such temporary occupancy shall be dependent on issuance of a building permit for the reconstruction/repair of the principal residence and shall expire upon issuance of a Certificate of Occupancy for the principal structure or twelve (12) months from the date of the event that damaged the structure, whichever occurs first. For good cause shown and to recognize extenuating circumstances, the Zoning Administrator may extend the authorization for as much as an additional 12-month period or until a Certificate of Occupancy is issued, whichever occurs first. ;
 - (3) wheels or other transporting devices shall not be removed except for necessary repairs or seasonal storage.

The provisions of this subsection shall not be deemed to authorize take-off or landing operations from residential properties for aircraft of any type, including special light-sport aircraft, experimental light-sport aircraft, or ultra-light aircraft, as defined by the Federal Aviation Administration (FAA).

- (i) Outdoor recreation facilities such as swimming pools, tennis courts, basketball courts, skateboard ramps, private boat docks, piers or boat houses, provided that the use of such facilities shall be limited to the occupants of the premises and guests for whom no admission or membership fees are charged.
- (j) Fences or walls in single-family residential districts provided that:
 - (1) fences or walls located in rear yards shall not exceed eight feet (8') ~~2.5m~~ in height;
 - (2) fences or walls located in side yards shall not exceed six feet (6') ~~2m~~ in height;
 - (3) fences or walls located in front yards shall not exceed four feet (4') ~~1.5m~~ in height;
 - (4) fences or walls located on corner lots shall be subject to the visibility standards established in section 24.1-220;
 - (5) the above standards shall not be deemed to prohibit any fences or walls which may be required for screening, security or safety purposes by other sections of this chapter; in addition, in the case of lots having multiple street frontages which by definition would be considered "front yards," the Zoning Administrator may authorize the installation of fences up to eight (8) feet in height, rather than the 4-foot limit specified above, to provide privacy for the side and rear yard areas of the dwelling based on its orientation on the lot; and
 - (6) The "finished" side of any fence shall face outward towards surrounding properties and rights-of-ways, except where the Zoning Administrator determines such orientation to be impractical or unnecessary given existing fences or other extenuating circumstances on the adjacent property.
 - (7) No barbed wire or electrified or similar type fences shall be permitted except in conjunction with a bona fide agricultural operation.
- (k) Roadside sales of produce provided that operations shall be limited to no more than ninety (90) days per year and solely to the sale of produce grown or raised on the premises and shall provide off-street parking for not less than three (3) vehicles.
- (l) Yard or garage sales subject to the following provisions:

- (1) Items offered for sale shall be limited to those which are owned by an occupant of the premises or other participants authorized by this section and which are normally and customarily used or kept on a residential premises. Such items shall not have been specifically purchased or crafted for resale;
 - (2) Participation in such sale shall be limited to the occupant of the premises and not more than four (4) non-occupants. For the purpose of this section, participation shall be construed to mean the offering for sale of items owned by an occupant or participating non-occupant, whether or not that individual is physically present on the premises during the conduct of such sale;
 - (3) Such sales shall be limited to two (2) in any given calendar year per lot. The duration of any single sale shall not exceed three (3) consecutive days.
- (m) Craft sales or shows subject to the following provisions:
- (1) Items offered for sale shall be limited to those which have been made or crafted by the participants as a hobby or avocation as distinguished from items which are made in the conduct of a home occupation;
 - (2) Participation in such sales or shows shall be limited to an occupant of the premises and not more than four (4) non-occupants. For the purposes of this section, participation shall be construed to mean the offering for sale of items made or crafted by an occupant or participating non-occupant, whether or not that individual is physically present on the premises during the conduct of such sale or show;
 - (3) Not more than one (1) such sale or show event shall be conducted on a premises in any given calendar year. For the purposes of this section, the duration of any sale or show event shall be limited to six (6) days within a period of ten (10) consecutive days;
 - (4) Such sales and shows may be conducted only upon authorization by the zoning administrator of a temporary permit subsequent to application and payment of a five dollar (\$5.00) nonrefundable processing fee by an occupant of the premises upon which such sale or show is proposed to be conducted. The zoning administrator shall make a determination with respect to approval or denial of applications within ten (10) working days of submission and shall consider the following:
 - a. the proposed location of the sale or show and the probable impact on adjacent land uses;

- b. the ability of the structure in which such sale will be conducted to accommodate safely the number of persons likely to patronize such event;
 - c. the ability of the streets in the immediate vicinity of such residential property to accommodate adequately and safely the traffic and parking demand anticipated to be associated with such event without disruption of normal traffic circulation and emergency access needs.
- (5) In the event the zoning administrator determines that the conduct of such craft sale or show at the proposed location would adversely affect the surrounding land uses because of the disruption to the normal and essential traffic circulation needs of the immediate vicinity, or the safety and welfare of participants, patrons, neighbors, or the general public, the application for temporary permit shall be denied. No application for a temporary permit shall be deemed to have been received for processing unless accompanied by a nonrefundable processing fee in the amount of five dollars (\$5.00).
- (n) Other uses and structures of a similar nature which are customarily associated with and incidental to residential uses.

Sec. 24.1-272. Accessory uses permitted in conjunction with commercial and industrial uses.

The following accessory uses shall be permitted in conjunction with commercial and industrial uses. No accessory use, activity, or structure, except fences, shall be constructed until the principal use of the lot has commenced, or the construction of the principal building/structure has commenced and is thereafter diligently and continuously pursued to completion:

- (a) Fences or walls provided that:
- (1) fences or walls located in side or rear yards shall not exceed eight feet (8') ~~[2.5m]~~ in height;
 - (2) fences or walls located in front yards shall not exceed six feet (6') ~~[2m]~~ in height provided that corner visibility standards, as established in section 24.1-220 shall be observed;
 - (3) the above standards shall not be deemed to prohibit any fences or walls which may be required for screening, security or safety purposes by other sections of this chapter; and
 - (4) the "finished" side of fences shall face any adjacent public right-of-way or residential zoning districts except where the Zoning Administrator deter-

mines such orientation to be impractical or unnecessary given existing fences or other extenuating circumstances on the adjacent property.

- (b) Uses intended specifically for the use and benefit of the employees and families or patrons of the principal use such as snack bars, cafeterias, off-street parking spaces, health and fitness, and recreation facilities or similar uses.
- (c) Living quarters for a proprietor or manager and family located in the same building as the place of occupation, or living quarters for a watchman or custodian of an industrial establishment.
- (d) Incidental repair, installation or assembly facilities for products or equipment used or sold in the operation of the principal use, unless specifically prohibited or otherwise regulated under the applicable district regulations.
- (e) Incidental storage facilities for goods and materials used or offered for retail sale on the premises.
- (f) Motor vehicle fuel dispensing pumps, pump islands, or service kiosks installed for and utilized exclusively by vehicles owned or operated by commercial or industrial establishments to which they are accessory.
- (g) Antenna structures for radio communication purposes or other information or data transfer purposes associated with a business or industrial operation. Antenna structures in excess of one hundred feet (100') in height (including both the supporting structure and the antenna) shall be permitted only by the board after conducting a duly advertised public hearing.
- (h) Dish antennae shall be subject to the following provisions:
 - (1) Dish antennae shall not exceed twelve feet (12')~~4m~~ in diameter and fifteen feet (15')~~4.5m~~ in height.
 - (2) Dish antennae shall be permitted in rear yards and on roofs. No part of a dish antenna shall be closer than ten feet (10')~~3m~~ to any lot line. When located on a roof, such antenna shall be set back from all edges of the roof a distance of at least two (2) times its height.
 - (3) All dish antennae and the construction and installation thereof shall conform with applicable requirements of the Uniform Statewide Building Code. No dish antenna may be installed on a portable or movable base.
 - (4) The above dimensional and location standards notwithstanding, where the zoning administrator determines that a usable satellite signal cannot be obtained by locating or sizing a dish antenna in accordance with such criteria, application may be made to the board in accordance with the procedures established in article I, for authorization by special use permit, of an alternative placement or size in order to provide for the reception of a us-

able signal. In its consideration of such applications, the board may impose such conditions as it deems necessary to protect the public health, safety and general welfare and to protect the character of surrounding properties.

- (5) The above provisions shall not apply to any dish antenna used by a cable company possessing a valid franchise issued by the board.
- (i) Incidental retail sales of products produced or refined on the premises.
- (j) Incidental monitoring equipment or devices designed to monitor general conditions or specific processes or events or both.
- (k) Other uses and structures of a similar nature which are customarily associated with and incidental to commercial or industrial uses.

Sec. 24.1-273. Location, height, and size requirements.

Except where other provisions of this chapter ~~require a greater setback~~ are more restrictive, the following requirements shall apply to the location, height and size of all accessory uses or structures in all districts, including the planned development district unless the approving ordinance for such district (project) has established alternative or supplementary requirements:

- (a) With the exception of statues, arbors, trellises, flagpoles, fences, walls or road-side stands, accessory buildings or structures shall not be located closer to the front lot line than the principal building provided, however, that where the setback of the principal building exceeds fifty feet (50') ~~{15m}~~, accessory buildings and structures shall be subject only to a fifty-foot (50') ~~{15m}~~ minimum setback requirement.
- (b) Accessory buildings or structures located closer to the front lot line than the rear of the principal building shall observe the side yard requirements applicable to the principal building.
- (c) An accessory building or structure attached to a principal building by any wall or roof construction, or located within ten feet (10') ~~{3m}~~ of any principal building, shall be considered a part of the principal building and shall observe all yard regulations applicable thereto.
- (d) Accessory buildings and structures shall observe minimum side and rear yard setbacks of five feet (5') ~~{1.5m}~~ except where the provisions of this section require otherwise and provided, however:
 - (1) There shall be no side and rear yard requirements for fences or walls; and

- (2) There shall be no rear yard requirement for docks, piers or boathouses; however, a setback of ten feet (10') ~~{3m}~~ from side lot lines, or extensions thereof into bodies of water, shall be observed. All such uses shall be subject to applicable permitting requirements of the Virginia Marine Resource Commission and United States Army Corps of Engineers.
- (e) Roadside stands shall be set back at least twenty feet (20') ~~{6m}~~ from any road right-of-way.
- (f) The above listed requirements shall not apply to the parking or storage of small cargo or utility trailers, recreational vehicles and similar equipment; however, no such trailer, vehicle, or equipment shall be stored within twenty feet (20') ~~{6m}~~ of any public road right-of-way, unless in a driveway.
- (g) Except as authorized by section 24.1-231 of this chapter, no accessory building or structure shall exceed the maximum height limitation established for the district or the height of the structure to which it is accessory, whichever is less, provided, however, that buildings which are accessory to a single-story building may be constructed to a maximum height not exceeding 1.25 times the height of the principal building. In cases where this is permitted, the accessory building shall be separated from the principal building by a distance of at least twenty feet (20') and shall observe a minimum side and rear yard setback of ten (10) feet rather than the normally applicable five (5) feet.
- (h) With the exception of barns and similar structures associated with a bona fide agricultural/farming operation, the building footprint (i.e., lot coverage) of a structure accessory to a residential use shall not exceed the area of the building footprint of the principal residential structure.
- (i) Accessory structures shall be located on the same lot as the principal structure. Where adjoining lots are under single ownership and an accessory structure is proposed to be located so as to straddle an interior property line, or where the accessory and principal structures would be on different lots, the owner shall be responsible for preparing and recording, prior to issuance of a building permit, a survey plat to vacate the interior lot line(s) as necessary to ensure the principal and accessory structures are located on the same lot.

Sec. 24.1-282. Home occupations permitted as a matter of right.

- (a) Permitted home occupations in all residential districts shall include the following:
 - (1) Artists and sculptors.
 - (2) Authors and composers.

- (3) Dressmakers, seamstresses, tailors.
 - (4) Home crafts such as model making, rug weaving, cabinet making, furniture refinishing, or ceramics.
 - (5) Office facility of a member of the clergy.
 - (6) Office facility of a resident salesperson, sales representative or manufacturer's representative.
 - (7) Home office facility for resident accountants, architects, artists, photographers, brokers, computer programmers, consultants, counselors, dentists, physicians, engineers, lawyers, insurance agents, real estate agents or similar professionals provided, however, that clients or patients may not be seen at the home office facility.
 - (8) Telephone answering service.
- (b) Permitted home occupations which may only be conducted in the RC, RR, R20, and R13 districts include the following:
- (1) Photography studios.
 - (2) Day care or babysitters for not more than six (6) children, other than those of the provider, at any single time or in any 24-hour period.
 - (3) Tutoring, music or voice lessons or similar services for not more than four (4) persons other than the family members of the provider at any single time.
 - (4) Other activities and uses which the zoning administrator determines can be operated in complete accordance with section 24.1-281 of this chapter and which are not otherwise regulated or prohibited by this chapter or any other provision of law.

The activities specifically authorized under this subsection shall be permitted to have on-site client contact notwithstanding the provisions of Section 24.1-281 to the contrary.

Sec. 24.1-283. Home occupations permitted by special use permit.

The board may authorize, by special use permit issued in accordance with all applicable procedural requirements as set forth in article I, the following and materially similar types of home occupations subject to the specified conditions:

- (a) Home occupations permitted under section 24.1-282 which generate a parking demand for three (3) parking spaces, but no more than five (5) spaces and those

occupations permitted under section 24.1-282(b) in residential districts other than those specified.

- (b) Home occupations with on-premises retail sales, or personal services, or customer/client contact.
 - (1) Uses which may be authorized under this section shall include barber and beauty shops, antique shops, bicycle rental, rental of rooms for non-transient use, day care for more than six (6) children, in-home professional offices with customer or client contact, firearms sales, and other materially similar activities and land uses involving on-premises retail sales, customer contact, and personal services. These provisions shall also apply to catering operations conducted in accordance with section 29.5 of the Rules and Regulations of the Board of Health of the Commonwealth of Virginia provided however, that food preparation that is conducted from the structure's standard residential kitchen for off-premises sale and consumption and that does not involve any on-site customer contact or non-resident employees shall not be deemed to require a special use permit.
 - (2) All public contact related to such use shall be limited to the period between 8:00 a.m. and 8:00 p.m., Monday through Saturday, unless otherwise specified by the board.
 - (3) Off-street parking shall be provided in accordance with the applicable standards established in article VI for business and commercial uses. Such spaces shall be in addition to those otherwise required for the residential use of the property, and shall be no less than ten feet (10')~~3m~~ from any property line, unless on an existing driveway, and shall be effectively screened from view of adjacent properties and street rights-of-way by landscaping supplemented, if necessary, by fencing.
 - (4) The type and extent of items to be displayed, stored or sold, or personal services to be offered on the premises shall be specifically stipulated by the board in authorizing any such use permit. In no case shall the area devoted to sales, storage, display or conduct of such home occupation exceed twenty-five percent (25%) of the floor area of the residence or such smaller area as may be stipulated by the board.
 - (5) Such use shall comply with all applicable requirements for home occupations as established in section 24.1-281 of this chapter.

ARTICLE III. DISTRICTS

Sec. 24.1-306. Table of land uses.

USES <small>P=PERMITTED USE S=PERMITTED BY SPECIAL USE PERMIT</small>	RESIDENTIAL DISTRICTS						COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
	CATEGORY 2 - AGRICULTURE, ANIMAL KEEPING, AND RELATED USES												
1. Aquaculture	P									P		P	P
2. Crop/Livestock Farming	P	P										P	P
3. Horsekeeping in Conjunction with Residential Use	P	P	S	S		S	S	S	S	S		S	S
4. Plant Nursery or Greenhouse													
a) Wholesale Only	P	P							P		P	P	
b) Retail Sales with or without wholesale sales	S							P			P	P	
c) Retail or Wholesale with accessory landscape contracting storage & equipment	S	S							S		P	P	P
6. Private Kennel	S	P	S	S						S		S	
7. Animal Hospital, Vet Clinic, Commercial Kennel													
a) Without Outside Runs	S					S		S			P	P	P
b) With Outside Runs	S	S							P		S	P	P
8. Commercial Stables		S							S			S	S
9. Commercial Orchard or Vineyard	P	P	S	S					S		P	P	P
10. Forestry	P	P	S	S	S	S	S	S	S	S	S	S	S
11. Farmer's Market	S						P		P			P	P

USES <small>P=PERMITTED USE S=PERMITTED BY SPECIAL USE PERMIT</small>	RESIDENTIAL DISTRICTS						COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
	CATEGORY 9 - RECREATION AND AMUSEMENT (NON-GOVERNMENTAL)												
1. Theater - Indoor									P		P		
2. Health, Exercise, Fitness Centers Including Swimming and Racquet Sports													
a) Indoor Only							S	P	P		P	P	P
b) Indoor & Outdoor								S	P		P	P	P
3. Bowling Alley									P		P		
4. Video Arcade, Pool Hall, Billiards Hall, Bingo Hall									S		S		
5. Indoor Family Amusement Center								S	P		P		
6. Skating Rink									P		P		
7. Firing Range-Indoor Only									S			S	S
8. Paintball Gun Firing Range -outdoor	S												S
9. Miniature Golf, Waterslide, Skateboard Rink, Baseball Hitting Range, Outdoor Commercial Amusement									S		S		
10. Golf Driving Range	S								P		S	S	S
11. Country Club or Golf Course, Public or Private	S	S	S	S	S	S		S			S		
12. Campgrounds	S	S							S	S			
13. Theme Park, Amphitheater, Stadium									S		S	S	S

1314. Marina, Dock, Boating Facility (Commercial)										P		P	P
1514. Marina, Dock, Boating Facility (Private/Club)	S	S	S	S	S	S				P		P	P

USES	RESIDENTIAL DISTRICTS						COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
	CATEGORY 11 – BUSINESS / PROFESSIONAL SERVICE												
1. Broadcasting Studio								P	P		P	P	P
2. Barber/Beauty Shop							P	P	P		P		P
3. Apparel Services (Dry Cleaning/Laundry retail) Laundromat, Tailor, Shoe Repair, Etc.)							P	P	P		P	P	P
4. Funeral Home (may include cremation services)								S	P		P		
4a. Cremation Services (human or pets)									S			S	S
5. a) Photographic Studio							S	P	P		P	P	P
b) Film Processing Lab								S	P		P	P	P
6. Household Items Repair									P		P	P	P
7. Personal Services (Fortune Teller, Tattoo, Pawn Shop, Etc.)									S				
8. a) Banks, Financial Institutions							P	P	P		P		
b) Freestanding Automatic Teller Machines							P	P	P	S	P		
9. Offices						S	P	P	P		P	P	P
10. Hotel & Motel								S	P	S	P		
11. Timeshare Resort						S			S	S	S		
12. Restaurant/Sit Down								P	P		P		
13. Restaurant/Brew-Pub									P		P		
14. Restaurant/Fast Food								S	P		S		
15. Restaurant/Drive In								S	P		S		
16. Restaurant - Carryout/Delivery only							S	P	P		S		
17. Catering Kitchen/Services							S	P	P		S		
18. Nightclub								S	S		S		
19. Commercial Reception Hall or Conference Center							S	S	P		P		
20. Small-Engine Repair (lawn and garden equipment, outboard motors, etc.)									P	P		P	P
21. Tool, Household Equipment, Lawn & Garden Equipment, Rental Establishment									P		P	P	P
22. Establishments Providing Printing, Photocopying, Blueprinting, Mailing, Facsimile Reception & Transmission or similar business services to the general public, and business and professional users								P	P		P	P	P
23. Professional Pharmacy							P	P	P		P		

[illegible]

P=PERMITTED USE S=PERMITTED BY SPECIAL USE PERMIT USES	RESIDENTIAL DISTRICTS						COMMERCIAL AND INDUSTRIAL DISTRICTS							
	RC	RR	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG	
	CATEGORY 15 - LIMITED INDUSTRIAL ACTIVITIES													
1. Laboratories, Research/Development Testing Facilities									S		P	P	P	
2. Publishing, Printing, Other than general public and business/professional services									P		P	P	P	
3. Computer and Technology Development and Assembly									P		P	P	P	
4. Contractors' Shops (e.g., Plumbing, Electrical, Mechanical, HVAC, Home Improvement or Construction, Swimming Pool, Landscaping, Cabinetmaking, General Building, Excavating, etc.) a) With Enclosed Storage of Equipment or Materials									P			P	P	
b) With Outdoor/Exposed Storage									S			P	P	
5. Laundry, Dry Cleaning Plant (institutional)												P	P	

6. Stone Monument Sales, Processing												S	P
7. Manufacture or Assembly of Electronic Instruments, Components, Devices								S	S	P		P	P
8. Machine Shops & Fabricators								S	S			P	P
9. Manufacture or Assembly of Medical, Drafting, Metering, Marine, Photographic, Mechanical Instruments										P		P	P
10. Ice Manufacturing and Storage												P	P
11. Sales, Distribution, and Installation of Glass, Including Windows, Mirrors, and/or Automobile Glass								S	P			P	P
12. Recycling Center								S	S			P	P
13. Recycling Plant									P			P	P

Sec. 24.1-307. Prohibited uses.

The following uses shall be prohibited in the county:

- (a) Smelting;
- (b) Nuclear materials manufacturing;
- (c) Nuclear waste processing or disposal;
- (d) Biohazard waste processing or disposal; and
- (e) Manufacture, transformation, or distribution of biologically accumulative poisons or other poisons that are or ever were registered in accordance with the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (7 USC 135, et sec.).
- (f) ATV (All Terrain Vehicle) tracks, cross-country circuits or other facilities designed or used for operation of such vehicles by other than the property owner/occupant as an activity accessory to their residential use of a property.

Sec. 24.1-327. YVA-Yorktown village activity district.

- (a) *Statement of intent.* The YVA district is intended to:
 - (1) Recognize Yorktown which, because of its national and international significance, its unique development history and the interrelatedness of historic, residential and commercial land uses, warrants the application of a special approach to further development; and
 - (2) Recognize and implement the Yorktown Master Plan as an overall guide to the future redevelopment of Yorktown; and

- (3) Provide development opportunities for a variety of land uses which will contribute to and complement the unique character and village atmosphere of Yorktown; and
 - (4) Promote economical and efficient land use, an improved level of amenities, innovative design, and unified development; and
 - (5) Encourage pedestrian and bicycle-scale development in Yorktown and make the community more amenable to pedestrians and bicyclists.
- (b) *Special procedural requirements.*
- (1) The use of any land or building within the YVA district on the date of the inclusion of such property in the district may either continue to be used for its then existing purpose or may thereafter be changed, but only in accordance with all applicable regulations, to accommodate any of the land uses listed in section 24.1-327(c), any provisions of article VIII, Nonconforming Uses, of this chapter to the contrary notwithstanding.
 - (2) Any proposed new use, other than single-family detached dwellings, or any subdivision of land, shall be approved only by the board of supervisors in accordance with the procedures for special use permits in section 24.1-115 of this chapter. Permitted land uses shall be those listed in section 24.1-327(c).
 - (3) With the exception of single family detached dwellings, the proposed enlargement or extensions of any use in this district which would result in an increase of less than twenty-five percent (25%) in either total lot coverage or floor area may be authorized, without public hearing, by resolution of the board. Proposed enlargement or expansion of any use, other than a single-family detached dwelling, that would result in an increase of twenty-five percent (25%) or more in either total lot coverage or floor area shall be subject to approval in accordance with the procedures for special use permits.
 - (4) Proposed changes in use of land, buildings or structures within the district may be approved by the zoning administrator upon a determination that the proposed new use is similar in type, size, scope and intensity to the previous use and that it is one of permitted uses listed in subsection (c) below. Where, in the opinion of the zoning administrator, such similarities do not exist, the proposal shall be subject to review and approval in accordance with the procedures for special use permits specified in section 24.1-115 of this chapter.
 - (5) The construction of new single-family detached dwellings, or the enlargement of existing single-family detached dwellings, shall be permitted as a matter of right provided that the proposed location is not within one of the areas specifically designated for commercial development by

the adopted Yorktown Master Plan and that the following setback and dimensional requirements are observed, and provided that all applicable requirements and procedures set out in the Yorktown Historic District Overlay (Section 24.1-377) are observed.

Front Yard	Twenty-five feet (25')
Side Yard	Ten feet (10'), five feet (5') for accessory buildings
Rear Yard	Twenty feet (20'), five feet (5') for accessory buildings
Building Height	Thirty-five feet (35')

- (6) Applications for approval of new single family detached residences, or additions to existing single family detached residences, which do not comply with the above noted minimum dimensional standards shall be referred to the Planning Commission and Board of Supervisors in accordance with the same procedures applicable to requests for special use permits.
- (7) Any proposed subdivision of a lot or parcel in the YVA District shall be referred to the Planning Commission and Board of Supervisors for review and action in accordance with the same procedures applicable to requests for special use permits.
- (c) *Permitted uses.* The following uses may be permitted within the YVA district subject to a determination by the zoning administrator or board, as prescribed in subsection (b) above, that the use in the location proposed is substantially in conformance with the Yorktown Master Plan:
 - (1) Dwellings, single-family detached, attached, or multi-family; also including structures designed to accommodate both residential and commercial uses.
 - (2) Churches and other places of worship.
 - (3) Office space for doctors, lawyers, accountants, architects or similar professions and general business offices such as those of insurance companies, trade associations, real estate companies, banks and financial institutions or similar establishments.
 - (4) Retail trade and business uses consistent with the character of the district and the surrounding area including such uses as:
 - a. gift shops;
 - b. sit-down restaurants; or

- c. specialty shops catering to the local and tourist market.
- (5) Art galleries, museums, tourist centers, community centers, performing or cultural arts centers, libraries, and similar types of uses intended to promote cultural resources.
- (6) Publicly owned uses such as offices, court houses, fire stations, parking facilities, parks, playgrounds, and schools.
- (7) Guest houses, bed and breakfast establishments.
- (8) Hotels, motels.
- (9) Personal service uses consistent with the character of the district and the surrounding area including such uses as:
 - a. beauty and barber shops;
 - b. day care facilities; or
 - c. drug stores.
- (10) Recreationally oriented waterfront businesses and establishments providing covered or uncovered boat slips or dock space, minor repairs or servicing, marine fuel and lubricants, marine supplies, refreshments, and similar goods or services.
- (11) Commercial parking facilities.
- (12) Uses and structures which are customarily accessory and clearly incidental and subordinate to any of the uses specifically permitted above.
- (d) *General dimensional, density and design requirements.* Other provisions of this chapter notwithstanding, development within the YVA district shall be subject to the following requirements:
 - (1) All development within the YVA district shall be served by public water and public sewer systems.
 - (2) There shall be no minimum lot size, minimum lot width or minimum lot frontage requirements within the YVA district provided, however, that in its approval of a proposed subdivision or land use, the board may establish such requirements as it deems necessary to ensure that the arrangement of the proposed use or division of land is compatible with the district in general.

- (3) With the exception of the minimum requirements specified for single-family detached dwellings in section 24.1-327(b)(5), there shall be no minimum front, side or rear yard requirements for developments within the YVA district provided, however, that yards and setbacks of an appropriate dimension shall be provided where determined necessary by the board to ensure adequate emergency access, light, and air, to protect the value and utilization of the subject property and adjacent property, and to maintain and enhance the character of the surrounding area.
- (4) The maximum residential density permitted in any development proposed in this district shall be ten (10) units per gross acre ~~[25 du/ha]~~.
- (5) Commercial and other non-residential uses permitted under the terms of this section shall be limited in lot coverage and floor area only to the extent that all such uses shall comply with the open space, height, fire separation, emergency access, and parking and loading requirements specified herein.
- (6) With the exception of single-family detached dwellings which shall be limited to thirty-five feet (35') in height, the height of any structure, including fixtures and mechanical systems, within the YVA district shall not exceed twenty-five feet (25') ~~[7.5m]~~ above the average finished ground elevation adjacent to the front of such structure provided, however, that the board, in recognition of unique topographical features, may require a lower maximum height in order to preserve and protect existing scenic views or may authorize a greater height after an evaluation of the character of the surrounding area, the spatial relationships of existing developments, the specific architecture proposed and the potential impacts on any scenic views or vistas.

~~(ef)~~ *Open space and recreational area requirements.*

- (1) A minimum of twenty-five percent (25%) of the total area of any development within the YVA District shall be reserved as landscaped open space or improved open air pedestrian plazas or courts unless a smaller percentage is approved by the board in consideration of special or unique characteristics of the proposed development.
- (2) In the case of residential developments, recreation space, as defined below, shall be provided at a ratio of two hundred (200) square feet ~~[18m²]~~ per dwelling unit unless a lesser amount is authorized by the board in consideration of circumstances unique to the particular development proposal. For the purposes of this section, recreation areas may include private patios, balconies or yard areas adjacent to individual dwelling units; or, common recreation space, either indoor or outdoor, which is available to all residents of the development.

- (3) Any common open space and recreational areas provided to meet the requirement above shall be protected by appropriate covenants developed in accordance with the provisions established in article IV-division 17, that are designed to ensure their perpetuation and maintenance.

(fg) *Special submission requirements.*

- (1) At the time of application for approval of a development proposal within the YVA district, the developer shall submit the following plans. Where a proposed development is subject to review and approval by the Historic Yorktown Design Committee (HYDC) in accordance with the terms of section 24.1-377, the review and action of the HYDC, if applicable, shall be secured before submitting the proposal for YVA district review by the board of supervisors:

- a. A plan for accommodating the pedestrian, bicycle, automobile, and trolley traffic, parking and loading demands which the development can be expected to generate. The plan shall be prepared by a transportation engineer, unless otherwise authorized by the zoning administrator, and shall be fully documented as to approach, methodology, and data collection, manipulation and analysis.

Such plan may include provisions for public or private off-site parking as well as on-site parking and shall include consideration of pedestrian, bicycle, and transit access. The zoning administrator or the board shall review the plan as to its suitability and feasibility for accommodating the traffic and parking demands of the proposed development.

Where the required parking spaces are proposed to be accommodated by an off-site or transit-oriented arrangement, an appropriate agreement between and among the involved parties and the county, suitable in form and content to the county attorney, shall be executed in order to provide a guarantee that such parking facilities will be available for the total period the use or uses for which the parking is required are reasonably expected to exist.

- b. An overall signage plan, including rendered drawings, for the proposed development. Such plan shall provide for unified and appropriately scaled and located signage and shall have been developed in accordance with the sign-regulations-dimensional requirements specified in the Yorktown Design Guidelines and shall have been reviewed by the HYDC. this chapter for the NB zoning district.
- c. A landscaping plan which specifies the type, size and location of landscaping proposed in conjunction with open space, recreation areas, courts/plazas, or other such amenities.

- d. Elevations or architectural renderings as well as descriptions of materials or colors to be used in the proposed development, all of which shall have been reviewed by the HYDC.
- (2) Such plans as required above, once approved, shall become part of the conditions of approval for the project and shall not be deviated from except upon specific approval of the board or the zoning administrator, depending upon which gave original approval.

Sec. 24.1-333. GB-General business district.

- (a) *Statement of intent.* The GB district is intended to provide opportunities for a broad range of commercial activities. Many of these uses are characterized by the need for large amounts of outdoor display and storage of goods or materials, significant parking and loading space requirements, a dependency on truck traffic, and, in general, an activity level and aesthetic character which set them apart from the types of uses permitted in the lower intensity commercial districts. The GB district is intended for application in areas designated for general commercial and tourist commercial development by the comprehensive plan but with specific attention to the suitability of such areas and their surroundings for accommodating the demands and impacts of high intensity commercial development.
- (b) *Dimensional standards.* Each lot created or used shall be subject to the following dimensional standards:

GB-GENERAL BUSINESS DISTRICT

Use Classification	Minimum Lot Requirements		Minimum Yard Requirements			Maximum Building Height
	Area	Width	Front	Side	Rear	
All Permitted & Special Uses	20,000 sf 1850m ²	100' 30m	45' 12.5m	10' 3m	10' 3m	50' 15m
Minimum district size: none						
NOTE: These minimum lot requirements apply where both public water and public sewer are available. For lots not served by public water and public sewer, refer to section 24.1-204. Performance standards and special use permit requirements or conditions may increase yard and lot requirements. See article IV.						

- (c) *Special requirements.*
- (1) Outdoor storage of goods or materials shall not be permitted in front yards. In side and rear yards, outdoor storage shall be in a fully buffered area which meets all applicable setback requirements.
- (2) Outdoor display of merchandise shall be limited to that merchandise which:

- a. is in working order and ready for sale; and
- b. is located in side or rear yards; or
- c. if in front, can be accommodated in the area immediately adjoining the front of the principal building and extending not more than ten feet (10') ~~[3m]~~ from it except:
 1. in the case of a permitted gasoline sales establishment, outdoor display can be accommodated on the pump islands;
 2. in the case of permitted vehicle sales establishments, landscape nurseries and materially similar uses, outdoor display which does not encroach upon any required element on the site shall be permitted.

No such display shall encroach upon any required parking or loading area or vehicular circulation area. Outdoor displays of merchandise shall not cause injury or harm to or reduce the viability of any required landscaping.

(3) Other provisions of this ordinance notwithstanding, the use of trailers, as defined in section 24.1-104, for outdoor storage purposes in conjunction with a principal permitted use shall be permitted by special exception approved by the board of supervisors subsequent to conducting a duly advertised public hearing. Such activity shall be subject to the following standards and such others as the board may deem appropriate:

- a. the use of trailers/cargo units shall be clearly accessory and incidental to the principal use of the property;
- b. such trailer or cargo unit shall not be visible from any adjacent right-of-way and shall be screened from view from such rights-of-way and adjacent properties by a walled enclosure at least two (2) feet higher than the height of the tallest trailer/cargo unit with such wall being constructed of as an extension of the principal building;
- c. the exterior finish of the enclosure wall shall match and/or complement the faces of the principal building with which it is aligned.
- d. the wall shall incorporate articulations, pilasters, belt and/or header courses or other decorative treatments to break up any continuous linear expanse greater than twenty-five (25) feet in length.
- e. Landscaping shall be placed around the perimeter of the enclosure in accordance with the building perimeter landscaping requirements specified by this chapter.

Sec. 24.1-340. EO-Economic opportunity district.

- (a) *Statement of intent.* The EO district is intended to guide a mix of commercial, tourist-related, and limited industrial uses to certain portions of the county identified in the comprehensive plan that have or are projected to have the access and infrastructure necessary to support both capital and employment intensive uses. Development in these locations is expected to be in keeping with that of the surrounding development and sensitive to the natural environment.
- (b) *Dimensional standards.* Each lot created or used shall be subject to the following dimensional standards:

EO-ECONOMIC OPPORTUNITY DISTRICT

Use Classification	Minimum Lot Requirements		Minimum Yard Requirements			Maximum Building Height
	Area	Width	Front	Side	Rear	
All Permitted & Special Uses	20,000 sf 4850m ²	100' 30m	45' 12.5m	10' 3m	10' 3m	75' 22.5m
Minimum district size: none						
NOTE: These minimum lot requirements apply where both public water and public sewer are available. For lots not served by public water and public sewer, refer to section 24.1-204. Performance standards and special use permit requirements or conditions may increase yard and lot requirements. See article IV.						

- (c) *Special requirements.*
- (1) Outdoor storage of goods or materials shall:
 - a. not be permitted in any front yards;
 - b. not encroach upon any required landscaping;
 - c. not encroach upon any required parking or loading zoning space;
 - d. be screened from public rights-of-way or adjoining properties which are zoned or used less intensively.
 - (2) Outdoor display of merchandise shall be permitted in any yard area provided that such display:
 - a. shall not encroach upon any required perimeter infiltration yards adjoining a lot line;
 - b. shall not encroach upon any required parking or loading space;

- c. when located in any front yard, shall be limited to that merchandise which is in working order and ready for sale; and
 - d. shall not cause injury or harm or reduce the viability of any required landscaping.
- (3) All uses shall be conducted so as not to produce hazardous, objectionable or offensive conditions at or beyond property line boundaries by reason of odor, dust, lint, smoke, cinders, fumes, noise, vibration, heat, glare, solid and liquid wastes, fire or explosion.
- (4) Other provisions of this ordinance notwithstanding, the use of trailers, as defined in section 24.1-104, for outdoor storage purposes in conjunction with a principal permitted use shall be permitted by special exception approved by the board of supervisors subsequent to conducting a duly advertised public hearing. Such activity shall be subject to the following standards and such others as the board may deem appropriate:
- a. the use of trailers/cargo units shall be clearly accessory and incidental to the principal use of the property;
 - b. such trailer or cargo unit shall not be visible from any adjacent right-of-way and shall be screened from view from such rights-of-way and adjacent properties by a walled enclosure at least two (2) feet higher than the height of the tallest trailer/cargo unit with such wall being constructed of as an extension of the principal building;
 - c. the exterior finish of the enclosure wall shall match and/or complement the faces of the principal building with which it is aligned.
 - d. the wall shall incorporate articulations, pilasters, belt and/or header courses or other decorative treatments to break up any continuous linear expanse greater than twenty-five (25) feet in length.
 - e. Landscaping shall be placed around the perimeter of the enclosure in accordance with the building perimeter landscaping requirements specified by this chapter.

Sec. 24.1-351. IL-Limited industrial district.

- (a) *Statement of intent.* The IL district is intended to provide opportunities for a wide variety of light manufacturing, fabricating, assembling, processing, wholesale distributing, and warehousing uses in areas designated for limited industrial development by the comprehensive plan. In order to preserve land for these industrial activities, to reduce extraneous traffic, and to avoid future conflicts between industry and other uses, permitted commercial activities are limited pri-

marily to business and industrial parks and to those activities which will be useful to employees in the district and compatible with and complementary to the permitted types of industrial activities.

- (b) *Dimensional standards.* Each lot created or used shall be subject to the following dimensional standards:

IL-LIMITED INDUSTRIAL DISTRICT

Use Classification	Minimum Lot Requirements ⁽¹⁾		Minimum Yard Requirements			Maximum Building Height
	Area	Width	Front	Side	Rear	
All Permitted & Special Uses	20,000 sf 1850m ²	100' 30m	45' 13.5m	10' 3m	10' 3m	60' 18m
⁽¹⁾ These minimum lot requirements apply where both public water and public sewer are available. For lots not served by public water and public sewer, refer to section 24.1-204. Minimum district size: none NOTE: Performance standards and special use permit requirements or conditions may increase yard and lot requirements. See article IV.						

- (c) *Special requirements.*

- (1) Outdoor storage of goods or materials shall:

- not be permitted in any front yard area;
- not encroach upon any required landscaping;
- not encroach upon any required parking or loading space;
- be screened from public rights-of-way or adjoining properties which are not zoned or used for industrial purposes.

- (2) Outdoor display of merchandise shall be permitted in any yard area provided that such display:

- shall not encroach upon any required perimeter infiltration yards adjoining a lot line;
- shall not encroach upon any required parking or loading space;
- when located in any front yard, shall be limited to that merchandise which is in working order and ready for sale; and
- shall not cause injury or harm or reduce the viability of any required landscaping.

- (3) Other provisions of this ordinance notwithstanding, the use of trailers, as defined in section 24.1-104, for outdoor storage purposes in conjunction

with a principal permitted use shall be permitted provided that such use shall be clearly accessory and incidental to the principal use of the property and that such trailer or cargo unit shall not be visible from any adjacent right-of-way and shall be screened from view from adjacent properties by fencing and/or landscaping.

Sec. 24.1-361. PD-Planned development district.

- (a) *Statement of intent.* The PD district is established to encourage innovative and creative design and to facilitate use of the most advantageous construction techniques in the development of land for a variety of compatible land uses. Specifically, the district is intended to:

- (1) ensure ample provision and efficient use of open space;
- (2) promote high standards in the layout, design and construction of development;
- (3) promote development of superior projects or communities; and
- (4) achieve a mixture of uses and types of uses when appropriate.

In addition, in accordance with the objective of the board to promote and encourage a more moderately-priced single-family detached housing product within the county, the planned development district is intended to provide opportunities, through application of the affordable housing incentive provisions set forth herein, for the consideration of project proposals having a less extensive open space, recreation space, and amenities package, but which offer cost-containment measures which may not be otherwise available.

- (b) *Application of district designation.* A PD district may be located within any area of the county except those designated for general industrial uses by the comprehensive plan subject to establishment in accordance with the procedures set forth in this section.
- (c) *Permitted land uses.* The land uses within any planned development shall be substantially in accordance with the land use designation in the comprehensive plan. Where the comprehensive plan suggests that a mixed-use development can be appropriate, no less than one-half (½) of the acreage shall be devoted to the uses in the underlying land use designation, unless the board of supervisors determines that a lesser amount is appropriate and acceptable given the specific characteristics of the mixed-use proposal. Subject to specific authorization by the board, the following land uses shall be permitted:

- (1) Dwellings: single-family detached, attached, or multi-family including mixtures thereof.

- (2) Senior Housing, as defined in this chapter (i.e., Independent Living, Congregate Care, Assisted Living, or Continuing Care Retirement Communities) and in accordance with the performance standards established in Section 24.1-411 unless specifically modified by the board at the time of approval of the proposed development.
 - (3) Public and semi-public uses such as churches, schools, offices, libraries, fire stations, parks, playgrounds, golf courses, swimming pools, tennis courts, recreational marinas, community centers, and similar types of uses.
 - (4) Commercial and retail uses which are designed, located and scaled in proportion to the overall scale of the planned development.
 - (5) Office and service sector uses such as offices and office buildings; banks and financial institutions; medical, optical, and dental clinics and laboratories; data processing centers; technical or business schools; printing, publishing, engraving, blueprinting businesses, photocopying, facsimile, and similar services; hotels and motels; and similar uses.
 - (6) Limited industrial, wholesale, and warehouse uses permitted as a matter of right in the EO district.
 - (7) Uses and structures which are customarily accessory and clearly incidental and subordinate to any of the uses permitted above.
- (d) *General dimensional, density and design requirements.*
- (1) All development within the PD district shall be served by public water and public sewer systems.
 - (2) The minimum area of any tract, or combination of contiguous tracts, of land proposed for development as a PD shall be five (5) acres. Additional adjoining acreage may be added to an approved PD provided that all procedures applicable to the creation of such a district are observed.
 - (3) The maximum development density for a PD development shall be generally consistent with the density envisioned by the adopted comprehensive plan for the area in which located. The board may, however, approve density increases as a part of the PD approval and, in the case of Senior Housing developments, may consider density allowances of up to twenty (20) units per acre.
 - (4) The following dimensional standards shall be observed unless specifically modified by the board (either upwards or downwards) at the time of district approval:
 - a. Minimum lot area: none

- b. Minimum lot width:
 - 1. single-family detached: forty-five feet (45')
 - 2. single-family attached: twenty feet (20')
 - 3. non-residential: seventy feet (70')
 - c. Minimum yard requirements:
 - 1. The minimum distance between any two principal buildings or structures shall be twenty feet (20'), except in senior housing developments where it shall be thirty (30) feet;
 - 2. The minimum distance between any principal building and an accessory building, or between any two accessory buildings, shall be ten feet (10').
 - 3. The minimum distance between any principal or accessory building and any public or private street right-of-way or common area boundary line shall be thirty feet (30').
 - 4. The minimum setback from any external property line shall be twenty feet (20').
 - d. Maximum building height:
 - 1. Residential structures shall not exceed forty feet (40').
 - 2. Non-residential structures shall not exceed fifty feet (50').
- (5) The proposed location and arrangement of structures shall not be detrimental to existing or prospective adjacent structures or to the existing or prospective development of the neighborhood.

Sec. 24.1-372. repealed – see proposed Chapter 23.2 of York County Code
EMA-Environmental management area overlay district.

~~(a)Statement of intent. In accordance with the objectives of the comprehensive plan, the environmental management area overlay regulations are intended to promote the proper use, management and protection of the vast amounts of sensitive and unique lands which contribute to the economy of the region and the environmental quality of the county and especially the Chesapeake Bay.~~

~~The effect of these provisions is not necessarily to preclude development or use of such areas but rather to ensure that the types of development permitted by the underlying zoning district will be undertaken with a deliberate and professionally responsible recognition of the particular environmental qualities and conditions of a proposed development site.~~

~~Certain portions of this section of the ordinance are enacted under the authority of Section 10.1-2100 et seq. of the Code of Virginia and are intended to implement the requirements of the Chesapeake Bay Preservation Act. The specific purposes of the provisions of this section are to:~~

- ~~(1)Protect existing high quality state waters;~~
- ~~(2)Restore all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them;~~
- ~~(3)Safeguard the clean waters of the Commonwealth from pollution;~~
- ~~(4)Prevent any increase in pollution;~~
- ~~(5)Reduce existing pollution; and~~
- ~~(6)Promote resource conservation in order to provide for the health, safety, and welfare of the present and future citizens of the county.~~

~~(b)Definitions. For the purposes of this section, the following terms shall have the following meanings unless the context clearly indicates otherwise:~~

~~*Best management practices (BMPs).* A practice, or a combination of practices, that is determined by a state agency or the Hampton Roads Planning District Commission to be the most effective, practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.~~

~~*Chesapeake Bay Preservation Area (CBPA).* Any land designated by the county pursuant to the Chesapeake Bay Preservation Area Designation and Management Regulations, (9 VAC 10-20-70 et seq.), and sections 10.1-2107, et seq., Code of Virginia of the Chesapeake Preservation Act, as they may be amended from time to time. The Chesapeake Bay Preservation Area consists of a Resource Protection Area (RPA) and a Resource Management Area (RMA), and Intensely Developed Area (IDA).~~

~~*Chesapeake Bay Preservation Area Map (CBPA Map).* A map to be used as a guide that shows the general location of CBPA areas. The map is on file in the office of the zoning administrator and is hereby adopted by reference and declared to be part of this section. The Natural Resources Inventory will determine the exact boundaries of the CBPA.~~

~~*Development.* Any man-made change to improved or unimproved real estate including but not limited to buildings or other structures, excavating, mining, filling, grading or paving.~~

~~*Development review process.* The process for site plan, subdivision, land disturbing and building permit review to ensure compliance with section 10.1-2109, Code of Virginia and the York County Code, prior to any clearing or grading of a site or the issuance of a building or land disturbing permit.~~

~~*Floodplain.* All lands which likely would be inundated by floodwater as a result of a storm event of a 100-year return interval.~~

~~*Highly erodible soils.* Soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight. The erodibility index for any soil is defined as the product of the formula $RKLS/T$, where K is the soil susceptibility to water erosion in the surface layer; R is the rainfall and runoff; LS is the combined effects of slope length and steepness; and T is the soil loss tolerance.~~

~~*Impervious cover.* A surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to: roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted aggregate surface.~~

~~*Intensely developed area (IDA).* CBPA's where development is concentrated and meets the conditions outlined in 9VAC 10-20-100 and so indicated on the CBPA map adopted by the county and approved by the Chesapeake Bay Local Assistance Board.~~

~~*Nonpoint source pollution.* Pollution consisting of constituents such as sediment, nutrients, and organic and toxic substances from diffuse sources, such as runoff from agricultural and urban land use and development.~~

~~*Nontidal wetlands.* Those wetlands, other than tidal wetlands, that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the US Environmental Protection Agency pursuant to Section 404 of the Federal Clean Water Act in 33 CFR 328.3b, as may be amended from time to time.~~

~~*Noxious weeds.* Weeds that are difficult to control effectively such as Johnson Grass, Kudzu, and multiflora rose.~~

~~*Public Road.* A publicly owned road and the appurtenant structures designed and constructed by the Virginia Department of Transportation.~~

~~*Redevelopment.*—The process of developing land that is or has been previously developed.~~

~~*Resource Management Area (RMA).*—That component of the Chesapeake Bay Preservation Area that is not classified as the Resource Protection Area. The RMA is contiguous to and 500 feet landward of the Resource Protection Area or the extent of the 100-year floodplain, whichever is greater.~~

~~*Resource Protection Area (RPA).*—That component of the Chesapeake Bay Preservation Area comprised of tidal wetlands; nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow; tidal shores; and a vegetated buffer not less than 100 feet in width located adjacent to and landward of the components listed above and along both sides of any water body with perennial flow. These lands have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts, which may result in significant degradation to the quality of state waters.~~

~~*Silvicultural Activities.*—Forest management activities, including but not limited to the harvesting of timber, the construction of roads and trails for forest management purposes, and the preparation of property for reforestation that are conducted in accordance with the silvicultural best management practices developed and enforced by the State Forester pursuant to Section 10.1-1105 of the Code of Virginia and are located on property defined as real estate devoted to forest use under Section 58.1-3230 of the Code of Virginia.~~

~~*Tidal shore (shore).*—Land contiguous to a tidal body of water between the mean low water level and the mean high water level.~~

~~*Tidal wetlands.*—Vegetated and nonvegetated wetlands as defined in Section 28.2-1300 of the Code of Virginia.~~

~~*Water Body with Perennial Flow.*—A body of water flowing in a natural or man-made channel year-round during a year of normal rainfall. This includes, but is not limited to, streams, estuaries, and tidal embayments and may include drainage ditches or canals constructed in wetlands or from former natural drainage ways, which convey perennial flow. Lakes and ponds, through which a perennial stream flows, are a part of the perennial stream. Generally, the water table is located above the streambed for most of the year and groundwater is the primary source for stream flow.~~

~~*Water-dependent facility.*—A development of land that cannot exist outside of the Resource Protection Area and must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include, but are not limited to, ports, the intake and outfall structures of power plants, water treatment plants, sewage treatment plants, and storm sewers; marinas and other boat docking structures; beaches and other public water-oriented recreation areas; and fisheries or other marine resources facilities.~~

~~Wetlands. Includes tidal and nontidal wetlands.~~

~~(c) Applicability. The special provisions established in this section shall apply to the following environmental management areas:~~

~~(1) Areas with an elevation of less than four feet above mean sea level;~~

~~(2) Areas with slopes in excess of 20 percent;~~

~~(3) Tidal and nontidal wetlands;~~

~~(4) Areas identified by the Virginia Department of Conservation and Recreation, Division of Natural Heritage in the publication entitled "Conservation Planning for the Natural Areas of the Lower Peninsula of Virginia, Technical Report 93-4," as may be amended from time to time.~~

~~(5) Areas identified as floodplains;~~

~~(6) Areas with highly erodible soils;~~

~~(7) Areas designated by the county as Chesapeake Bay Preservation Areas (CBPA) composed of Resource Protection Areas (RPA), Resource Management Areas (RMA) and Intensely Developed Areas (IDA).~~

~~a. Such areas are designated, in general, on the CBPA Map, which is hereby adopted and made a part of this chapter by reference. The CBPA Map shows only the general location of the Chesapeake Bay Preservation Areas. It should be consulted by persons contemplating activities within the county prior to engaging in a regulated activity; however, the specific onsite location of the Chesapeake Bay Preservation Areas shall be delineated by the Natural Resources Inventory as required by subsection (f), below.~~

~~(d) Use regulations. Permitted uses, special permit uses, accessory uses, dimensional standards and special requirements shall be as established by the underlying zoning district, unless specifically modified by the requirements set forth herein.~~

~~(e) Policies and Guidelines for Administering Environmental Management Areas. The zoning administrator shall prepare such policies and guidelines not inconsistent with this chapter as may be necessary to ensure the proper use, management, and protection of the environmental management areas. Such policies and guidelines shall be subject to approval by the Board of Supervisors, shall be kept on file in the zoning administrator's office and may be amended by resolution of the Board from time to time as conditions warrant. In the event situations arise that necessitate adjustments or supplements to such policies, the zoning administrator may promulgate interim guidelines. Such interim guidelines shall be submitted~~

~~to the Board of Supervisors within 180 days after establishment and shall stand until the Board actually approves, disapproves or modifies such interim guidelines.~~

~~(f) — *Natural Resources Inventory requirements.*~~

~~(1) Natural resources inventory: A natural resources inventory, prepared and submitted in accordance with the provisions established herein, shall be required for all properties proposed for development.~~

~~a. _____ The inventory shall be prepared and certified by a professional qualified to perform environmental inventories. Evidence of the professional qualifications of the person preparing the inventory shall be submitted as a part of the inventory. In the case of construction of individual single family detached dwellings, the inventory shall be required; however, professional preparation or certification shall not be required except for perennial stream flow determination or unless professional involvement is deemed necessary by the zoning administrator because of the magnitude of land disturbance or the particular sensitivity of the location. Subdivisions effected through the subdivision ordinance shall comply fully with the terms of this section.~~

~~b. _____ The inventory shall contain a plan sheet that clearly depicts the extent and location of any of the features and areas defined in subsection (c) above. For each feature and area, descriptive information such as slope percents, wetlands classification, soil type, etc., shall be provided.~~

~~c. _____ The applicant is responsible for having a site specific in field determination for perennial flow made by a qualified professional. The zoning administrator shall confirm the site specific in field perennial flow determination.~~

~~1. _____ For the purpose of determining whether water bodies have perennial flow, a state approved, scientifically valid system of in field indicators of perennial flow must be used.~~

~~d. _____ The inventory shall also contain a narrative element that describes and defines the relative values of the natural resources defined in subsection (c) above which are found to be present on the site, including flora and fauna.~~

~~e. _____ The exact boundaries of the RPA shall be adjusted, as necessary, based on the site specific in field evaluation and the Natural Resources Inventory.~~

- ~~f. Natural resources inventories shall be submitted to the zoning administrator for review and approval concurrent with the submission of applications for site plans, subdivision plans, land disturbing permits building permits or any other activity that constitutes development. The zoning administrator shall not approve the submitted documents unless the natural features and ecological relationships inherent on the site have been identified as deemed appropriate by the zoning administrator.~~
- ~~(g) *Special performance standards.* Proposed development or redevelopment within all environmental management areas shall be planned and undertaken in accordance with the following standards, depending on the type(s) of natural features and resources present on the site:~~
- ~~(1) Wetlands delineations shall be performed in accordance with the comprehensive onsite determination method specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, 1987, as it may be amended from time to time.~~
 - ~~(2) All provisions of chapter 23.1, Wetlands, County Code, shall be observed where applicable.~~
 - ~~(3) All construction within flood plain areas shall be in accordance with the requirements of section 24.1 373 of this chapter, the Uniform Statewide Building Code and any special requirements of the National Flood Insurance Program applicable to such area.~~
 - ~~(4) In areas having existing or proposed slopes in excess of 20 percent, or having highly erodible soils, no roads, driveways, structures, or land disturbing activities shall be allowed except where no other practical option exists, as determined by the zoning administrator, and then, such activities shall be conducted in a manner which does not contribute to increased stormwater runoff velocities or erosion.~~
 - ~~(5) Clear cutting of trees shall not be permitted. However, the zoning administrator may permit selected thinning in areas located outside of the RPA based upon best management practices and in accordance with an approved plan. The provision shall not be deemed to preclude cutting or thinning necessitated by disease or infestation and recommended by the Virginia Department of Forestry or other qualified professional in areas outside the RPA.~~
 - ~~(6) For natural areas with a biodiversity ranking of B1 (outstanding significance), B2 (very high significance), or B3 (high significance), placement of a conservation easement or other development restriction within the secondary ecological boundary as defined by Technical Report 93-4, by the Division of Natural Heritage, Virginia Department of Conservation and Recreation, as may be amended from time to time, shall be shown on~~

~~the plan. Biodiversity rankings between B1 and B3 indicate natural resources of global or state significance. For areas with a B4 or B5 ranking, necessary federal and state permit approvals required under the Federal Clean Water Act, Endangered Species Act, Chesapeake Bay Preservation Ordinance, or state and county wetlands laws and regulations shall suffice as proper environmental authorization.~~

~~(h) *Special requirements for Chesapeake Bay Preservation Areas.* In addition to the requirements established above, all development within the CBPA as generally designated on the adopted CBPA Map and as specifically delineated on site per the requirements of subsection (f), above, shall conform with the following provisions.~~

~~(1) *Lot size.* Lot size shall be subject to the requirements of the underlying zoning district(s), provided, however, that any newly created lot shall have sufficient area outside the RPA within which to accommodate the intended development in full accordance with the performance standards in this section so that no land disturbance will occur in the RPA, except for such development otherwise specifically allowed in the RPA by this section. On newly created lots, principal buildings shall be located at least ten (10) feet from the RPA buffer.~~

~~(2) *RPA Boundary Delineation:* The boundary of the RPA shall be delineated by temporary construction fencing on any development site subject to the provisions of this chapter. In addition, at the completion of construction, the property owner/developer shall be responsible for posting permanent signage identifying the landward limits of the RPA. The signs will be provided by the County and shall be posted at such locations as are approved by the County and identified on the site development plan.~~

~~(3) *CBPA Performance standards.* General performance standards for development and redevelopment in RPA's and RMA's shall be as follows:~~

~~a. No more land shall be disturbed than is necessary to provide for the proposed use or development.~~

~~b. All land development shall minimize impervious cover consistent with the proposed use or development.~~

~~c. Existing vegetation shall be preserved to the maximum extent practicable consistent with the use or development proposed.~~

~~d. Any activity which will cause more than 2,500 square feet of land disturbance, including construction of single family houses and installation of septic tanks and drainfields, shall comply with the requirements of chapter 10, Erosion and Sediment Control and all other aspects of the county development review process.~~

- ~~e. Stormwater management criteria consistent with the water quality protection provisions (4VAC 3-20-10 et seq.) of the Virginia Stormwater Management Regulations (4 VAC 3-20), as they may be amended from time to time, shall be satisfied.~~
- ~~1. For development, the post development nonpoint source pollution runoff load shall not exceed the predevelopment load, based on the Chesapeake Bay default value for phosphorus loading of 0.45 pounds/acre/year and an equivalent impervious cover of sixteen percent.~~
- ~~2. For sites within IDA's or other isolated redevelopment sites, the existing nonpoint source pollution load shall be reduced by at least ten percent. The zoning administrator may waive or modify this requirement for redevelopment sites that originally incorporated best management practices for stormwater runoff quality control, provided, however, that in no case may the post development nonpoint source pollution runoff load exceed the predevelopment load.~~
- ~~3. Any maintenance, alteration, use or improvement to an existing structure, which does not increase the impervious area nor degrade the quality of surface water discharge, as determined by the zoning administrator, may be exempted from the requirements of this subsection.~~
- f. The functionality and maintenance of best management practices shall be ensured by the owner or developer through a maintenance agreement, approved as to form by the county attorney, whereby the owner shall covenant to perform perpetual maintenance of any such BMP and grant authority to the county to perform such work at the owner's cost if the owner should default on his obligations. The owner or developer shall cause such agreement to be recorded by the clerk of the circuit court and provide evidence of such recordation to the zoning administrator.
- ~~g. All on-site sewage soil absorption systems not requiring a Virginia Pollution Discharge Elimination System (VPDES) permit shall be pumped out at least once every five years or otherwise maintained in accordance with Section 18.1-40(f) of the County Code.~~
- ~~h. A secondary sewage soil absorption area with a capacity at least equal to that of the primary absorption area shall be provided for every lot proposed for development where public sanitary sewer is not available in accordance with Section 18.1-40(e) of the York County Code. Building or construction of any impervious surface shall be prohibited on the area of all sewage disposal sites, includ-~~

~~ing the secondary sewage soil absorption area, until the lot is served by public sewer.~~

- ~~i. _____ Land upon which agricultural activities are being conducted, including but not limited to crop production, pasture, dairy and feed lot operations or lands otherwise defined as agricultural, shall have a soil and water quality conservation assessment conducted and approved in accordance with the CBPA Regulations (9VAC10-20-120.9), as may be amended from time to time.~~
- ~~j. _____ Silvicultural activities in the CBPA are exempt from this chapter provided that silvicultural operations adhere to water quality protection procedures prescribed by the Virginia Department of Forestry in the "Virginia's Forestry Best Management Practices for Water Quality" as may be amended from time to time.~~
- ~~k. _____ Prior to initiating grading or other on-site development activities on any portion of a lot, all wetlands permits required by federal, state, and county laws and regulations shall be obtained and evidence of such submitted to the zoning administrator.~~

~~(4) _____ *Water Quality Impact Assessments (WQIA).*~~

- ~~a. _____ A water quality impact assessment (WQIA) shall be required for:~~
 - ~~1. Any proposed land disturbance, development or redevelopment activity within a RPA as permitted by this section;~~
 - ~~2. Any buffer modification, noncomplying use and development waiver, variance or encroachment as provided for in this section;~~
 - ~~3. Any development activity in the RMA as deemed necessary by the zoning administrator due to the unique site characteristics or intensity of the proposed use or development.~~
- ~~b. _____ The purpose of the WQIA is to:~~
 - ~~1. _____ Identify the impacts of proposed land disturbance, development or redevelopment on water quality and lands in the RPA and other environmentally sensitive lands;~~
 - ~~2. _____ Ensure that where land disturbance, development or redevelopment does take place within the RPA and other sensitive lands, it will occur on those portions of the site and in a manner that will be least disruptive to the natural functions of the RPA and other sensitive lands;~~

3. ~~Provide documentation for requests for development approval or administrative relief from terms of this section when warranted and in accordance with the requirements contained herein; and~~
 4. ~~Specify mitigation that will address water quality protection.~~
- e. ~~A WQIA shall include a narrative and site drawings that address the evaluation criteria and that depict, address and includes the following:~~
1. ~~Location of the components of the RPA;~~
 2. ~~Location and nature of the proposed encroachment, non-complying use or development waiver, variance or modification of the buffer area, including: type of paving material; areas of clearing; filling or grading; location of any structures, drives, or other impervious cover; and sewage disposal systems or reserve drainfield sites;~~
 3. ~~Type and location of proposed best management practices and supporting calculations to mitigate any proposed encroachment and/or modification;~~
 4. ~~Location of existing vegetation, including the number and type of trees and other vegetation in the buffer proposed to be removed to accommodate the encroachment, noncomplying use and development waiver, variance or modification, and identification of trees to remain;~~
 5. ~~Revegetation plan that supplements the existing buffer vegetation and specifies the proposed replacement vegetation in accordance with the Buffer Guidelines.~~
 6. ~~Erosion and sediment control and construction sequencing; and~~
 7. ~~A copy of all required permits from all applicable agencies necessary to develop the project or a status of the acquisition of each.~~
- d. ~~The WQIA shall be submitted to the zoning administrator for review and approval concurrent with the submission of applications for review and approval of site plans, subdivision plans, applications for land disturbing activity permits, building permits, buffer modification, buffer encroachment, noncomplying use and devel-~~

~~opment waiver, allowable land development, redevelopment or variances.~~

e. ~~Upon completing review of a WQIA the zoning administrator will determine whether the proposed buffer modification, buffer encroachment, noncomplying use and development waiver, land development, redevelopment or application for a variance is consistent with the provisions of this section and make a finding based upon the following evaluation criteria:~~

1. ~~Any proposed encroachment is necessary to accommodate the proposed improvements and it is not practicable to place improvements elsewhere on the site to avoid disturbance of the buffer area;~~

2. ~~Impervious surface and vegetative disturbances are minimized;~~

3. ~~Proposed mitigation measures, including the revegetation plan and site design, result in a minimal disturbance to all components of the RPA including the 100 foot buffer area;~~

4. ~~Proposed mitigation measures will effectively retain all buffer area functions: pollutant removal, erosion and runoff control;~~

5. ~~Proposed best management practices, where required, achieve the requisite reductions in pollutant loadings;~~

6. ~~The cumulative impact of the proposed development, when considered in relation to other development in the vicinity, both existing and proposed, will not result in a significant degradation of water quality.~~

f. ~~The zoning administrator may require additional mitigation where potential impacts have not been adequately addressed.~~

~~(5) RPA buffer area requirements.~~

a. ~~To minimize the adverse effects of human activities on the other components of the RPA, state waters, and aquatic life, a 100 foot wide buffer area of vegetation as described in the Buffer Guidelines shall be provided. The purpose of the buffer is to retard runoff, prevent erosion, and filter nonpoint source pollution from runoff and it shall be retained if present and established where it does not exist in accordance with the Buffer Guidelines.~~

- b. ~~For purposes of calculating the impact of the proposed development on water quality, the required 100-foot wide RPA buffer area shall be deemed to achieve a 75percent reduction of sediments and a 40percent reduction of nutrients.~~
- e. ~~Where land uses such as agriculture or silviculture within the area of the buffer cease and the lands are proposed to be converted to other uses, the full 100-foot wide buffer shall be reestablished. In reestablishing the buffer, management measures shall be undertaken to provide woody vegetation that assures the buffer functions set forth in this section. Reestablishment must be accomplished in accordance with the Buffer Guidelines, as may be amended from time to time.~~
- d. ~~Permitted modifications of the buffer area:~~
 - 1. ~~Existing woody vegetation may be removed to provide for reasonable sight lines, access paths, and shoreline erosion control best management practices, if authorized by the zoning administrator, on a case by case basis, upon submittal of a WQIA documenting that the RPA buffer functions will be maintained and vegetation will be replaced.~~
 - a) ~~Trees may be thinned and pruned for sight lines, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering non-point source pollution from runoff in accordance with the Buffer Guidelines.~~
 - b) ~~Any access path shall be constructed and surfaced so as to effectively control erosion and aligned to minimize tree removal and environmental impact.~~
 - c) ~~For approved shoreline erosion control best management practices, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice, applicable permit conditions or requirements and in accordance with the Buffer Guidelines.~~
 - d) ~~Dead or diseased, trees or shrubbery may be removed pursuant to sound horticultural practice in accordance with the Buffer Guidelines.~~

- ~~e) The following modifications to the buffer do not require a WQIA or plan approval if performed as described in the Buffer Guidelines:~~
 - ~~(i) Home landscaping such as pruning, mowing, mulching; and~~
 - ~~(ii) Removal of noxious weeds provided they are replaced with vegetation equally suited for the growing environment and no land disturbance takes place.~~
- ~~e. On land used for agricultural purposes, the agricultural buffer area shall be managed to prevent concentrated flows of surface water from breaching the buffer area and noxious weeds from invading the buffer area. Agricultural activities may encroach into the buffer area provided that the provisions of Virginia's Chesapeake Bay Preservation Area Designation and Management Regulations (Section 9 VAC 10-20-130.5b 1-5 and 10-20-120.9) as they may be amended from time to time, are met.~~
- ~~f. Permitted encroachments into the buffer area~~
 - ~~1. When the application of the RPA buffer would result in the loss of an adequate, as determined by the zoning administrator, buildable area on a lot or parcel legally created prior to October 1, 1989 the zoning administrator may permit an encroachment into the buffer area in accordance with following criteria:~~
 - ~~a) Encroachments into the buffer area shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities. Detached accessory structures shall not be eligible for encroachment authorizations.~~
 - ~~b) Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment, and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot.~~
 - ~~c) The encroachment may not extend into the seaward 50 feet of the buffer area.~~
 - ~~d) Encroachments into the buffer processed through an administrative review shall be subject to the findings required by subsection (9)a but without the require-~~

~~ment for a public hearing, such findings to be made instead by the zoning administrator.~~

2. ~~When the application of the buffer area would result in the loss of a buildable area on a lot or parcel recorded between October 1, 1989 and March 1, 2002, or on a lot or parcel legally created prior to January 1, 2004, and effected by a perennial stream determination, encroachments into the buffer area may be allowed through an administrative process in accordance with the following criteria:~~
 - a) ~~The lot or parcel was created as a result of a legal process conducted in conformity with the County's subdivision regulations;~~
 - b) ~~Conditions or mitigation measures imposed through a previously approved exception shall be met;~~
 - c) ~~If the use of a BMP was previously required, the BMP shall be evaluated to determine if it continues to function effectively and if necessary the BMP shall be reestablished or repaired and maintained as required; and~~
 - d) ~~The criteria of subdivision f.1. of this section shall be met.~~
- g. ~~Redevelopment within IDA's may be exempt from the RPA buffer requirement in accordance with the development review process, provided that the water quality standards found in section 24.1-372(h)(2), Performance Standards, can be achieved.~~
- h. ~~Nothing contained herein shall be construed to prevent an RPA buffer area from being used to fulfill minimum open space standards required elsewhere in this chapter.~~
- (6) ~~Land development may be allowed in the RPA, subject to zoning administrator review and approval, and only if it is one or more of the following:~~
 - a. ~~Is a new or expanded water dependent facility provided;~~
 1. ~~It does not conflict with the comprehensive plan;~~
 2. ~~It complies with the performance criteria set forth in this section;~~
 3. ~~Any non water dependent component is located outside of the RPA; and~~

- ~~4. Access through the RPA to the water dependent facility will be provided with the minimum disturbance necessary. Where practicable, a single point of access will be provided.~~
- ~~b. Constitutes redevelopment outside of an IDA and there is no increase in impervious area in the RPA, no further encroachment in the RPA and all applicable erosion and sediment control and stormwater management criteria are observed.~~
- ~~c. Constitutes development or redevelopment within an IDA.~~
- ~~d. Is a new use established pursuant to subsection (5)f or is an addition or alteration to a noncomplying structure allowed pursuant to subsection (8).~~
- ~~e. Is a road or driveway crossing not exempt under subsection (7), below, and which complies with the provisions of this section, provided further:~~
 - ~~1. The zoning administrator makes a finding that there are no reasonable alternatives to aligning the road or driveway in or across the RPA.~~
 - ~~2. The alignment and design of the road or driveway are optimized, consistent with other applicable requirements, to minimize (i) encroachment in the RPA and (ii) adverse effects on water quality.~~
 - ~~3. The design and construction of the road or driveway satisfies all applicable criteria of this section, including submission of a WQIA; and~~
 - ~~4. The zoning administrator reviews the plan for the road or driveway proposed in or across the RPA in conjunction with a site plan, subdivision plan, and land disturbing or building permit application.~~
- ~~f. Is a flood control or stormwater management facility that drains or treats water from multiple development projects or from a significant portion of a watershed provided:~~
 - ~~1. The county has conclusively established that location of the facility within the RPA is the optimum location;~~
 - ~~2. The size of the facility is the minimum necessary to provide necessary flood control, stormwater treatment, or both;~~

- ~~3. The facility must be consistent with a stormwater management program that has been approved by the Chesapeake Bay Local Assistance Board as a Phase I modification to the county's program;~~
- ~~4. All applicable permits for construction in state or federal waters must be obtained from the appropriate local, state and federal agencies, such as the U.S. Army Corps of Engineers, the Virginia Department of Environmental Quality, the York County wetlands Board and the Virginia Marine Resources Commission;~~
- ~~5. Approval must be received from the County prior to construction;~~
- ~~6. Routine maintenance is allowed to be performed on such facilities to assure that they continue to function as designed.~~
- ~~7. It is not the intent of this subdivision to allow a BMP that collects and treats runoff from only an individual lot or some portion of the lot to be located within a RPA.~~

~~(7) Exemptions in Resource Protection Areas (RPA)~~

~~a. Exemptions for public utilities, railroads, and public roads and facilities.~~

- ~~1. Construction, installation, operation, and maintenance of electric, natural gas, fiber optic, telephone transmission lines, railroads, and public roads and their appurtenant structures in accordance with regulations promulgated pursuant to the Erosion and Sediment Control Law (section 10.1-560, et seq., Code of Virginia) and the Stormwater Management Act (Section 10.1-603.1 et seq, Code of Virginia) or an erosion and sediment control plan and a stormwater management plan approved by the Virginia Department of Conservation and Recreation will be deemed to constitute compliance with this section. The exemption of public roads is further conditioned on the following:~~
 - ~~a) Optimization of the public road alignment and design, consistent with other applicable requirements, to prevent or otherwise minimize encroachment in the RPA and adverse effects on water quality.~~
- ~~2. Construction, installation, and maintenance of water, sewer, natural gas and underground telecommunications and cable television lines owned, permitted or both by a local govern-~~

~~ment or regional service authority shall be exempt from the criteria in this part provided that:~~

- ~~a) To the degree possible, the location of such utilities and facilities shall be outside the RPA;~~
- ~~b) No more land shall be disturbed than is necessary to provide for the proposed utility installation;~~
- ~~c) All construction, installation, and maintenance of such utilities and facilities shall be in compliance with all applicable state and federal requirements and shall be designed and conducted in a manner that protects water quality; and~~
- ~~d) Any land disturbance exceeding an area of 2,500square feet shall comply with all erosion and sediment control requirements.~~

~~3. Water wells, passive recreation facilities such as publicly, community or homeowner association owned boardwalks, trails, and walkways, and historic preservation and archaeological activities located in the RPA may be exempted from the provisions of this section provided that it is demonstrated to the satisfaction of the zoning administrator that:~~

- ~~a) Any required permits, except those to which this exemption specifically applies, shall have been issued;~~
- ~~b) Sufficient and reasonable proof is submitted to establish that the intended use will not cause a deterioration in water quality;~~
- ~~c) The intended use does not conflict with nearby planned or approved uses; and~~
- ~~d) Any land disturbance exceeding an area of 2,500square feet will comply with chapter 10, Erosion and Sediment Control.~~
- ~~e) It is not the intent of this subsection to exempt private boardwalks, trails or walkways on an individual lot from the requirements of this section.~~

(8) ~~Noncomplying use and development waivers.~~ The lawful use of a principal building or structure which existed on September 20, 1990, or which exists at the time of any amendment to this section, and which is not in

~~compliance with the provisions of this section or such amendment thereto, may be continued in accordance with article VIII of this chapter.~~

~~No alteration or expansion of any noncomplying structure shall be allowed except in accordance with the following:~~

- ~~a. The zoning administrator may grant a noncomplying use and development waiver for legally existing principal structures on lots not in compliance with CBPA standards to provide for alterations and additions to such noncomplying structures provided that:~~
 - ~~1. There will be no increase in the nonpoint source pollution load;~~
 - ~~2. Any development or land disturbance exceeding an area of 2,500 square feet complies with all erosion and sediment control requirements of chapter 10, Erosion and Sediment Control; and~~
 - ~~3. Accessory structures or additions to accessory structures shall not be authorized by noncomplying use and development waivers.~~
- ~~b. An application for a noncomplying use and development waiver shall be made to the zoning administrator and shall include, for the purpose of proper enforcement of this section, the following information:~~
 - ~~1. Name and address of applicant and property owner;~~
 - ~~2. Legal description of the property and type of proposed use and development;~~
 - ~~3. A sketch of the dimensions of the lot or parcel, location of buildings and proposed additions relative to the lot lines, and boundary of the resource protection area;~~
 - ~~4. Location and description of any existing private water supply or sewage disposal system; and~~
 - ~~5. A WQIA, BMP plan and buffer restoration plan as deemed necessary by the zoning administrator.~~
- ~~c. A noncomplying use and development waiver shall become null and void five years from the date issued if no substantial work, as determined by the zoning administrator, has commenced.~~

- d. ~~Noncomplying use and development waivers for legally existing principal structures processed through an administrative review of the application shall be subject to the findings required by subsection (9)a, such findings to be made by the zoning administrator, but without the requirement for a public hearing.~~

~~(9) — Variances:~~

- a. ~~Variances to the CBPA requirements may be granted provided that a finding is made that:~~
 - 1. ~~The requested variance is the minimum necessary to afford relief;~~
 - 2. ~~Granting the variance will not confer upon the applicant any special privileges that are denied to other property owners who are subject to these provisions and similarly situated;~~
 - 3. ~~The variance is in harmony with the purpose and intent of the CBPA Act and is not of substantial detriment to water quality;~~
 - 4. ~~The variance request is not based upon conditions or circumstances that are self created or self imposed.~~
 - 5. ~~Reasonable and appropriate conditions are imposed, as warranted, that will prevent the allowed activity from causing a degradation of water quality; and~~
 - 6. ~~Other findings, as appropriate and required by the county, are met.~~
- b. ~~Variances to the CBPA requirements of section 24.1 372(h) (3), (4), (5), (6) and/or (7) shall be made by application to the board of zoning appeals. The board of zoning appeals shall identify the impact of the proposed variance on water quality and on lands within the RPA based on the natural resources inventory, mitigation measures and WQIA which complies with the provisions of this section and which shall be submitted by the applicant at the time of application.~~
- c. ~~The board of zoning appeals shall review the application for a variance and the submitted natural resources inventory and WQIA and may grant a variance to the requirements provided the above findings are made.~~
- d. ~~In granting a variance, the board of zoning appeals may impose reasonable and appropriate conditions as the board deems neces-~~

~~sary to further the purpose and intent of this section and the Chesapeake Bay Preservation Act.~~

~~(10) *Violations.*~~

- ~~a. Any person who engages in development or redevelopment within a CBPA or modifies the buffer within a RPA without first receiving approval for such activity as prescribed by this section shall be in violation of this section.~~
- b. Any person who violates any conditions of an allowed encroachment, buffer modification, noncomplying use and development waiver, variance, exemption or permitted activity or exceeds the scope of any approval of any authorized activity or who fails to comply with any other provision of this section shall be in violation of this section.

~~(11) *Civil Penalties*~~

- ~~a. Any person who violates any provision of this section or violates or fails, neglects, or refuses to obey any county notice, order, rule, regulation, or variance or permit condition authorized under this section shall, upon such finding by an appropriate circuit court, be assessed a civil penalty not to exceed \$5,000 for each day of violation. Such civil penalties may, at the discretion of the court assessing them, be directed to be paid into the treasury of the county for the purpose of abating environmental damage to or restoring the CBPA therein, in such a manner as the court may direct by order, except that where the violator is the county itself or its agent, the court shall direct the penalty to be paid into the state treasury.~~
- b. ~~With the consent of any person who violates any provision of this section or violates or fails, neglects, or refuses to obey any county notice, order, rule, regulation, or variance or permit condition authorized under this section, the county may provide for the issuance of an order against such person for the one time payment of civil charges for each violation in specific sums, not to exceed \$10,000 for each violation. Such civil charges shall be paid into the treasury of the county for the purpose of abating environmental damage to or restoring the CBPA, except that where the violator is the county itself or its agent, the civil charges shall be paid into the state treasury. Civil charges shall be in lieu of any appropriate civil penalty that could be imposed under subdivision 1 of this subsection. Civil charges may be in addition to the cost of any restoration required or ordered by the county.~~

Sec. 24.1-375. TCM-Tourist corridor management overlay district.

- (a) *Statement of intent.* In accordance with section ~~15.2-2306~~~~15.1-503.2~~ Code of Virginia and the objectives of the comprehensive plan, the tourist corridor management overlay district regulations are designed and intended to protect the aesthetic and visual character of the transportation corridors leading into and through the designated historic districts of Williamsburg and Yorktown. All development proposed within these corridors shall be subject to procedures and standards in addition to those in the district regulations. Primarily this overlay district is intended to provide a positive visual experience for those visitors coming into and through the county. The provisions that follow include both requirements (using the word “shall”) that must be met and recommendations (using the word “should”) that suggest desirable features and treatments that property owners are encouraged to voluntarily incorporate into their building/site designs.
- (b) *Applicability.* The special provisions established in this section shall apply to development on parcels which are located along major tourist corridors used to access historic districts in Williamsburg and Yorktown that have been designated on the Virginia Landmarks Register. All lands within two hundred fifty feet (250') ~~[75m]~~ of the following arterial rights-of-way shall be included in the overlay district. Where the property is bisected by this line the overlay designation shall apply to all construction proposed beyond the 250-foot line to a depth of 500 feet, or to the boundary of the property, whichever is less:
- (1) George Washington Memorial Highway (Route 17) north of Cook Road
 - (2) Richmond Road (Route 60)
 - (3) Bypass Road (Route 60)
 - (4) Pocahontas Trail (Route 60)
 - (5) Route 132
 - (6) Merrimac Trail (Route 143) west of Queen Creek
 - (7) Goosley Road (Route 238) east of Route 17
 - (8) Cook Road (Route 704), but excluding the east side of the road between Route 17 and Old York Hampton Highway (Route 634)
 - (9) Colonial National Historical Parkway
 - (10) Second Street from Merrimac Trail to the City of Williamsburg boundary line

The boundary of the tourist corridor overlay district shall be shown on the zoning map and shall be delineated as a surveyed line on any site plan or subdivision plat proposed for property located within this district. The boundary shall be measured from the future right-of-way line if the proposed development will be required to add right-of-way, either because of its traffic impact or if the roadway is shown on an adopted statewide, regional, or county plan as requiring additional right-of-way within a twenty (20) year period. ~~Where the property is split by this line, these provisions shall apply only to the portion within the district.~~

- (c) *Use Regulations.* Permitted uses, special permit uses, accessory uses, dimensional standards and special requirements shall be as established by the underlying zoning district, unless specifically modified by the requirements set forth herein.
- (d) *Tree protection.*
 - (1) No person shall cut, destroy, move or remove any living, disease-free tree of any species having a trunk caliper of eight inches (8") ~~{200mm}~~ or larger, measured four and one-half feet (4½') ~~{1.5m}~~ above ground level, in conjunction with any development of land in this district unless and until final approval of required site plans and subdivision plans shall be obtained that authorizes such action.
 - (2) No person shall cut or clear trees for any reason or for the sole purpose of offering land for sale. Land may, however, be underbrushed (bush-hogged).
 - (3) When located within a zoning district which permits such activity, the clear-cutting of trees strictly in conjunction with timbering or silvicultural activities is permitted provided that clear-cutting shall not occur within one hundred feet (100') ~~{30m}~~ of the right-of-way of any corridor designated in this section and only when in compliance with a forest management plan approved by the Virginia Department of Forestry. The term "clear-cutting" as used herein shall mean the cutting of more than twenty-five percent (25%) of the trees located on the site.
- (e) *Replacement of trees.* Should the zoning administrator determine that trees eight inches (8") ~~{200mm}~~ in diameter or greater or vegetation which contributes to the buffering effect have been removed without specific site plan or subdivision plan approval for such removal, the zoning administrator shall require replacement of such trees or vegetation. The minimum height of the new replacement trees shall be twelve feet (12') ~~{3.75m}~~. The minimum height and spread of new shrubs shall be three feet (3') ~~{1m}~~. The zoning administrator may require replacement at ratios greater than one-to-one (1:1) in recognition of the size, spatial coverage, and maturity differences between replacement trees and the trees being replaced. Ratios shall generally conform to the provisions of §24.1-241 relating to tree credits for mature trees.

- (f) *Special architectural standards along tourist corridors.* No building exterior or structure including signs shall have architectural materials inconsistent in quality, appearance, or detail with other architectural materials commonly used in the District. Specific consideration shall be given to compatibility with adjacent properties, thus preventing an adverse impact to existing or future development which could cause a depreciation in property values.

Design and architectural features shall demonstrate consistency with the following provisions:

- (1) Large work area doors or open bays shall not open toward or face the external roadways.
- (2) Heating, ventilating and air conditioning equipment, duct work, air compressors, other fixed operating machinery shall be either screened from view or located so that such items are not visible from the highway. Large trash receptacles, dumpsters, utility meters, aboveground tanks, satellite dishes, antennas, etc., shall be similarly located or screened.
- (3) Fences in front of buildings on the site are discouraged, but if used, fencing shall be landscaped to minimize visibility from the external roads or be of a style which is harmonious with adjacent development. Security and screening fencing required by other terms of the Zoning Ordinance shall be permitted but shall be buffered from direct view by appropriate landscaping.
- (4) Long monotonous facade designs shall be avoided including, but not limited to, those characterized by unrelieved repetition of shape or form or by unbroken extension of line. Any front-facing façade greater than 50 feet in length shall incorporate wall plane projections or recesses or bay divisions extending at least 20% of the length of the façade. Architectural details such as foundation highlights (belt courses, water tables), lintels, sills, awnings, contrasting cornices or bands of material at the first floor or roof level, projections at entries, wall and roof articulations, bay divisions, and other architectural treatments should be used to create visual interest and to avoid plain, unvaried facades.
- (5) Rooflines on large-scale buildings should be broken with features such as hips, cross gables and dormers. Flat-roofed structures should incorporate parapet walls or other treatments to provide visual interest as well as to shield any direct views of the roof deck or rooftop mechanical equipment. When renovating one-story buildings with flat roofs, consideration should be given to adding gable or hipped roofs, or parapet walls or other treatments to add height and visual interest. Brick, natural wood siding, or other materials with similar texture and appearance are considered most appropriate. Reflective surfaces are generally not considered acceptable exterior material.

- (6) Generally no more than three (3) colors shall be used per building. Roofs and window glazing (e.g. tinted or reflective windows) shall not be counted against the three-color limitation. Semitransparent stains are recommended for application on natural wood finishes. Paint colors for exterior surfaces, including trim and accent features, shall be selected from the Yorktown Color Palette which shall be defined as those exterior colors represented on the "Preservation Exterior Palette" published by Sherwin Williams Company or on the "Williamsburg Collection" palette published by Martin Senour Paints, provided however, that this shall not be construed to require the use of paints from these companies and color matches from other paint suppliers will be acceptable. The Zoning Administrator shall have the authority to approve requests for use of other colors that are similar to and compatible with those specifically shown on the referenced palette. The use of metallic colors, black (except as an accent or trim color), or fluorescent colors is not permitted. Trim and decorative materials made from wood, metal, composite materials, and concrete should be used where appropriate to contrast with wall materials. In the case of additions or redevelopment, if original quality building materials are to be retained, the new building materials should match or coordinate as closely as possible in terms of material, color and texture.
- (7) No portion of a building constructed of barren and unfinished concrete masonry unit (cinder block) or corrugated material or sheet metal shall be visible from any adjoining property or public right-of-way. This shall be not be interpreted to preclude the use of architectural block as a building material. Acceptable building materials for front or highly-visible elevations include, but are not limited to: brick, split-faced block, dryvit or other simulated stucco (EIFS), steel-surfaced/pre-finished insulated dimensional wall panels, pre-formed simulated brick or architectural block panels, and wood or synthetic clapboard siding. Attractive façade treatments are also encouraged on any elevation that is visible from an adjoining property.
- (8) Gasoline station canopies and bank, fast-food or other drive-thru establishment canopies shall be integrally related to the overall building design by using the same or complementary roof forms, materials, colors, and architectural treatments. Canopy lighting shall be recessed into the ceiling or framework of the canopy.
- (98) Building lighting shall be recessed under roof overhangs or generated from concealed source, ~~low-level~~ low-level light fixtures. Site lighting shall be from concealed sources (i.e., the luminaire or bulb itself is not visible), shall be of a clear white or amber light that does not distort colors, and shall not spill over onto adjoining properties, buffers, highways, or in any way impair with the vision of motor vehicle operators. Lighting fixtures or devices shall be of a directional or cut-off type capable of shielding the light source from direct view and providing well-defined lighting patterns.

- (9) ~~Site lighting shall be from concealed sources (i.e., the luminaire or bulb itself is not visible), shall be of a clear white or amber light that does not distort colors, and shall not spill over onto adjoining properties, buffers, highways, or in any way impair with the vision of motor vehicle operators. Lighting fixtures or devices shall be of a directional or cut-off type capable of shielding the light source from direct view and providing well-defined lighting patterns.~~
- (10) Signs shall generally have no more than three (3) colors. Free-standing signs shall be of a ground-mounted monument type and, with the exception of shopping center signs shall, shall not be larger than thirty-two (32) square feet ~~{3m²}~~ nor erected to a height greater than ~~tentwelve~~ feet ~~(10')(12'){3.75m}~~. Other provisions of this chapter notwithstanding, shopping center signs shall be limited to a maximum area of ninety-six (96) square feet and a maximum height of fifteen (15) feet.
- (11) Outdoor storage shall be permitted in accordance with the underlying zoning district, provided however, that all outdoor storage areas shall be screened so that they are not visible from public rights-of-way, internal roadways, and adjacent property. In the case of any new development established after the date of adoption of this section, the parking of any vehicles licensed as "trucks" by the Department of Motor Vehicles and used in the operation of the business shall be considered "outdoor storage" and shall be screened/buffered from view from public rights-of-way. This shall not be deemed to require screening of vehicles stopped temporarily for delivery/pick-up or loading/unloading. Outdoor display areas shall not encroach into any required front yard landscape area.
- (12) Parking areas shall have ten percent (10%) of their surface areas in landscaped islands. Surface parking within forty-five feet (45') of a public road right-of-way shall be screened from direct view from the public road by shrubbery and earthforms.
- (13) Site landscaping shall be designed to blend the architecture of the structures on the site with the natural landscape and character of the surroundings.
- (14) Compliance with the provisions of this subsection shall be evidenced by the submission to the zoning administrator of the following plans and information, in addition to complying with all applicable provisions of the subdivision ordinance or article V of this chapter:
- a. Comprehensive sign plan including design, materials, and colors to be utilized.
 - b. Architect's or artist's rendering of all proposed structures depicting the front, side and rear elevations including architectural treatment

of all structural exteriors to be visible from an external roadway, including building materials and colors to be utilized.

- c. Rendering of the landscape treatment in perspective view depicting parking areas visible from public road. If appropriate, this rendering may be combined with the one in subparagraph b. above.
 - d. The location and design of all proposed exterior site lighting within the proposed development.
 - e. Photographs or drawings of neighboring uses and architectural styles.
- (g) *Appeals.* In the event the zoning administrator disapproves plans submitted under the provisions of this section or recommends conditions or modifications which are unacceptable to the applicant, may request that such plans shall be forwarded to the planning commission for review and action at a public meeting at which the applicant shall have an opportunity to present its case and reasons for appeal. if, and only if, the reasons for disapproval or requiring modification stem from a failure to meet the provisions of this section. The plans shall be approved by the planning commission if it finds such plans to be in accordance with all applicable ordinances and consistent with the intent of protecting the aesthetic and visual character of the district. If the planning commission finds that such plans do not meet the above stated criteria, it shall deny approval of the plans or shall approve them with reasonable conditions which implement the intent of this district. This section shall not be interpreted to confer upon the planning commission any right to override the decision of the zoning administrator on any issue not directly related to the specific additional requirements of this section. In any case in which an applicant is dissatisfied with a decision of the planning commission, the applicant may appeal the decision to the board of supervisors within thirty (30) days by filing a notice of appeal with the clerk of the board of supervisors. Said appeal shall be reviewed by the board of supervisors at a public meeting at which the applicant shall have an opportunity to present its case and reasons for appeal. In accordance with the terms of section 15.2-2306 of the Code of Virginia, the applicant shall be entitled to appeal the decision of the board of supervisors to the circuit court within thirty (30) days of the board's decision.

Sec. 24.1-378. Route 17 corridor overlay district.

- (a) *Statement of intent.* In accordance with section 15.2-2306 of the Code of Virginia and the objectives of the comprehensive plan, the Route 17 corridor overlay district regulations are designed and intended to protect the aesthetic and visual character of the Route 17 corridor leading to the Yorktown historic district. All development proposed within the corridor shall be subject to the procedures and standards set forth in this section in addition to those required by the underlying

district regulations. Primarily, this overlay district is intended to provide a positive visual experience for those visitors coming into and through the county along this corridor. The provisions that follow include both *requirements* (using the word “shall”) that must be met and *recommendations* (using the word “should”) that suggest desirable features and treatments that property owners are encouraged to voluntarily incorporate into their building/site designs.

- (b) *Applicability.* The special provisions established in this section shall apply to development on parcels which are located along Route 17 between the Newport News city line and Cook Road. The overlay designation shall apply to all parcels with frontage on Route 17 and shall extend to the depth of the property or 500 feet, whichever is less.

The boundary of the tourist corridor overlay district shall be shown on the zoning map and shall be delineated as a surveyed line on any site plan or subdivision plat proposed for property located within this district. The boundary shall be measured from the existing right-of-way line, or the future right-of-way line if the proposed development will be required to add right-of-way either because of its traffic impact or if the roadway is shown on an adopted statewide, regional, or county plan as requiring additional right-of-way within a twenty (20) year period.

- (c) *Use Regulations.* Permitted uses, special permit uses, accessory uses, dimensional standards and special requirements shall be as established by the underlying zoning district, unless specifically modified by the requirements set forth herein.

- (d) *Special architectural standards.*

(1) No portion of a building façade facing (i.e., parallel to) or highly-visible from a public right-of-way shall be constructed of barren or unfinished concrete masonry unit (cinder block), corrugated material, sheet metal or vertical metal siding. Acceptable building materials for front or highly-visible elevations include, but are not limited to: brick, split-faced block, dryvit or other simulated stucco (EIFS), steel-surfaced/pre-finished insulated dimensional wall panels, pre-formed simulated brick or architectural block panels, and wood or synthetic clapboard siding. Attractive façade treatments are also encouraged on any elevation that is visible from an adjoining property.

(2) Any front-facing façade greater than 50 feet in length shall incorporate wall plane projections or recesses or bay divisions extending at least 20% of the length of the façade. Architectural details such as foundation highlights (belt courses, water tables), lintels, sills, awnings, contrasting cornices or bands of material at the first floor or roof level, projections at entries, wall and roof articulations, bay divisions, and other architectural treatments should be used to create visual interest and to avoid plain, unvaried facades.

- (3) Rooflines on large-scale buildings should be broken with features such as hips, cross gables and dormers. Flat-roofed structures should incorporate parapet walls or other treatments to provide visual interest as well as to shield any direct views of the roof deck or rooftop mechanical equipment. When renovating one-story buildings with flat roofs, consideration should be given to adding gable or hipped roofs, or parapet walls or other treatments to add height and visual interest.
- (4) Large work area doors or open bays that open toward or face Route 17 should be avoided.. Such features, whether front, side or rear-facing, shall be buffered from view from view from Route 17, adjacent roadways and development by architectural elements and/or decorative fencing and/or evergreen landscaping.
- (5) Heating, ventilating and air conditioning equipment, duct work, air compressors, other fixed operating machinery shall be either screened from view or located so that such items are not visible from the highway. Large trash receptacles, dumpsters, utility meters, aboveground tanks, satellite dishes, antennas, etc., shall be similarly located or screened.
- (6) Fences in front of buildings on the site are discouraged, but if used, fencing shall be landscaped to minimize visibility from the external roads or be of a decorative style that is harmonious with adjacent development. Security and screening fencing required by other terms of the Zoning Ordinance shall be permitted but wherever possible shall be buffered from direct view by appropriate landscaping.
- (7) Generally no more than three (3) colors shall be used per building. Roofs and window glazing (e.g. tinted or reflective windows) shall not be counted against the three-color limitation. Paint colors for exterior surfaces, including trim and accent features, shall be selected from the *Yorktown Color Palette* which shall be defined as those exterior colors represented on the "Preservation Exterior Palette" published by Sherwin Williams Company or on the "Williamsburg Collection" palette published by Martin Senour Paints, provided however, that this shall not be construed to require the use of paints from these companies and color matches from other paint suppliers will be acceptable. The Zoning Administrator shall have the authority to approve requests for use of other colors that are similar to and compatible with those specifically shown on the referenced palette. Semitransparent stains are recommended for application on natural wood finishes. The use of metallic colors, black (except as an accent or trim color), or fluorescent colors is not permitted. Trim and decorative materials made from wood, metal, composite materials, and concrete should be used where appropriate to contrast with wall materials. In the case of additions or redevelopment, if original quality building materials are to be retained, the new building materials should match or coordinate as closely as possible in terms of material, color and texture.

- (8) Signs shall generally have no more than three (3) colors and the color scheme should match or complement the colors used on the principal structure.
- (9) Outdoor storage shall be permitted in accordance with the underlying zoning district, provided however, that all outdoor storage areas shall be screened so that they are not visible from public rights-of-way, internal roadways, and adjacent property. In the case of any new development established after the date of adoption of this section, the parking of any vehicles licensed as “trucks” by the Department of Motor Vehicles and used in the operation of the business shall be considered “outdoor storage” and shall be screened/buffered from view from public rights-of-way. This shall not be deemed to require screening of vehicles stopped temporarily for delivery/pick-up or loading/unloading. Outdoor display areas shall not encroach into any required front yard landscape area.
- (10) Gasoline station canopies and bank, fast-food or other drive-thru establishment canopies shall be integrally related to the overall building design by using the same or complementary roof forms, materials, colors, and architectural treatments. Canopy lighting shall be recessed into the ceiling or framework of the canopy.
- (11) Site landscaping should be designed to blend the architecture of the structures on the site with the natural landscape and character of the surroundings.
- (12) Compliance with the provisions of this subsection shall be evidenced by the submission to the zoning administrator of the following plans and information, in addition to complying with all applicable provisions of the subdivision ordinance or article V of this chapter:

 - a. Comprehensive sign plan including design, materials, and colors to be utilized.
 - b. Architect's or artist's rendering of all proposed structures depicting the front, side and rear elevations including architectural treatment of all structural exteriors to be visible from an external roadway, including building materials and colors to be utilized.
 - c. Rendering or photo-simulation of the landscape treatment in perspective view depicting parking areas visible from public road. If appropriate, this rendering may be combined with the one in subparagraph b. above.
 - d. The location and design of all proposed exterior site lighting within the proposed development.

- e. Photographs or drawings of neighboring uses and architectural styles.
- (g) Appeals. In the event the zoning administrator disapproves plans submitted under the provisions of this section or recommends conditions or modifications which are unacceptable to the applicant may request that such plans shall be forwarded to the planning commission for review and action at a public meeting at which the applicant shall have an opportunity to present its case and reasons for appeal. The plans shall be approved by the planning commission if it finds such plans to be in accordance with all applicable ordinances and consistent with the intent of protecting the aesthetic and visual character of the district. If the planning commission finds that such plans do not meet the above stated criteria, it shall deny approval of the plans or shall approve them with reasonable conditions which implement the intent of this district. This section shall not be interpreted to confer upon the planning commission any right to override the decision of the zoning administrator on any issue not directly related to the specific additional requirements of this section. In any case in which an applicant is dissatisfied with a decision of the planning commission, the applicant may appeal the decision to the board of supervisors within thirty (30) days by filing a notice of appeal with the clerk of the board of supervisors. Said appeal shall be reviewed by the board of supervisors at a public meeting at which the applicant shall have an opportunity to present its case and reasons for appeal. In accordance with the terms of section 15.2-2306 of the Code of Virginia, the applicant shall be entitled to appeal the decision of the board of supervisors to the circuit court within thirty (30) days of the board's decision.

Section 24.1-379 Route 17 Commercial Corridor Revitalization Overlay District

- (a) **Statement of Intent:** The Route 17 Commercial Corridor Revitalization Overlay District is established to encourage re-use and redevelopment of physically constrained properties, as defined herein, in a manner that is beneficial for the corridor and economically viable for the property owner. The district is designed to provide additional flexibilities for development and redevelopment situations on such properties with the objective of restoring those properties to an economically viable and attractive component of the commercial corridor.
- (b) **Permitted Uses:** All uses permitted as a matter of right and by special use permit shall remain as established in the underlying zoning district regulations, unless specifically noted in this section.
- (c) **Special Performance Standards:** The following special performance standards shall apply to physically constrained properties within the Route 17 Revitalization Overlay District. Where the overlay district provisions impose a lesser standard than the provisions established elsewhere in the Zoning Ordinance, the less restrictive standards shall apply. Physically constrained properties shall be those which have the following characteristics:

- lot width is less than 80 feet *or* lot depth is less than 100 feet; *or*
 - lot size is less than 20,000 square feet; *and*
 - buildings or site improvements are situated so as not to comply with applicable setback or other dimensional standards prescribed for the underlying district (the applicable setback dimension shall take into account any right-of-way reservation requirement that would apply to the property based on programmed road improvements); *and*
 - the property has been designated as *blighted* by resolution of the Economic Development Authority. For the purposes of this section, blighted properties shall be deemed to be those with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement of design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health or welfare of the community and the appearance and economic vitality of the Route 17 corridor:
- (1) Damage or Destruction: The provisions of Section 24.1-802(b) notwithstanding, where a nonconforming building or structure located on a property meeting the above criteria is demolished on the owner's initiative, a new building or structure may be constructed on the site meeting the same setbacks as previously existed, provided however, that for the new structure no front setback shall be less than thirty (30) feet and no side or rear setback shall be less than five (5) feet and provided further that the new structure is architecturally compatible with its surroundings and will contribute positively to the surroundings, as determined by the zoning administrator in consultation with the Economic Development Authority. Such 30-foot setback shall be measurable from the existing front property line and the normal requirement to measure setback dimensions from the boundary of any right-of-way reserve area shall not apply, provided however, that no structure shall be placed less than ten (10) feet from any right-of-way reservation line.
- (2) Additions: The provisions of Sections 24.1-802(a) and 24.1-804 notwithstanding, additions to a building with nonconforming setbacks on a property meeting the above criteria may be constructed in line with any existing nonconforming front setback dimension of thirty (30) feet or more, provided that no side or rear setback shall be less than five (5) feet, and provided further that the exterior of the blighted structure shall be renovated or repaired so that the existing structure and the addition are architecturally compatible and contribute positively to their surroundings, as determined by the zoning administrator in consultation with the Economic Development Authority. In no event shall an addition be permitted if it

would have a setback of less than ten (10) feet from any right-of-way reservation line.

(3) Landscaping: The provisions of Section 24.1-244 notwithstanding, the front landscape yard dimension on a property meeting the above criteria may be reduced by one (1) foot for every one (1) foot in depth of public right-of-way adjoining the property that is suitable for installation of landscaping (e.g., those areas which are located outside and behind ditches or behind curb lines, and which are not encumbered by utilities, needed for future road widening, or otherwise unsuitable for the establishment and maintenance of landscape plantings), and which the property owner agrees in writing to landscape and maintain, provided that the Virginia Department of Transportation shall consent to the establishment of the landscaping. The maximum reduction in the depth of the landscape yard available under this provision shall be ten (10) feet. The property owner shall be responsible for landscaping and maintaining the subject area, both the private and public property areas, in accordance with the front yard landscape planting ratios and requirements specified in this Chapter.

(4) Parking:

a. Paving: The provisions of Section 24.1-607 notwithstanding, the Zoning Administrator may authorize the continued use or expansion of an existing gravel parking lot for a reuse or redevelopment proposal on a property meeting the above criteria where paving would be the sole cause for installation of stormwater management facilities to address water quality issues. Such authorization shall be contingent on the following:

1. the property owner shall install appropriate timber-bordered landscape islands and other delineators to define circulation aisles and parking spaces;
2. the parking lot shall be surfaced in a brown river stone aggregate mix with sufficient variation in stone sizes to ensure proper compaction and maneuverability; and
3. the parking lot shall be screened from view from Route 17 or other abutting roads by landforms and/or an evergreen hedgerow or similar landscape treatment approved by the Zoning Administrator.

(5) Impervious Surface: The provisions of Section 24.1-376 notwithstanding, the zoning administrator may authorize, after such consultation with the director of Newport News Waterworks as the zoning administrator may deem advisable, the reuse or redevelopment of a property meeting the above criteria and including a stormwater management system that addresses the pre-development / post-development runoff quality require-

ments specified in Section 24.1-376(f)(1)d. of this chapter in an alternative and equivalent manner.

ARTICLE IV. PERFORMANCE STANDARDS FOR USES

Sec. 24.1-402. Standards for open space development (cluster techniques).

- (a) In those districts where permitted, cluster techniques may be utilized to create open space developments, provided that a minimum gross land area of ten (10) acres ~~[4ha]~~ is available and utilized. Acreage that is continually inundated, or which is subaqueous, shall not be counted as "land area" for the purposes of this section. Additions to existing open space developments of less than ten (10) acres ~~[4ha]~~ may be approved if the zoning administrator finds that such an addition forms a logical extension.
- (b) Density calculations shall be based on net developable acreage as determined by section 24.1-203 of this chapter and the following formula:

$$\text{Lot Yield} = \frac{\text{Net Developable Acreage} \times \tilde{SR}}{\text{Minimum Conventional Lot Size of the Zoning District}}$$

Where \tilde{SR} is a reduction factor to account for streets and recreation space required in conventional subdivisions and is based on the zoning districts in which the proposed development is to be located:

<u>District</u>	<u>/SR</u>
RC	0.875
RR	0.850
R20	0.825
R13	0.800

Fractional units may be rounded up to the next whole number.

- (c) *Yard, size and dimension requirements.*
- (1) There are no lot width or area requirements.
- (2) The above notwithstanding, any lots abutting the exterior boundary of the open space development shall be of the same size as would be required of conventional development unless the abutting development shall have been developed as an open space development. A lot shall be considered

to be abutting unless it is separated by an area of open space which is not less than forty-five feet (45') in width.

- (3) The minimum setback from external streets shall be that which is prescribed in the underlying zoning district.
 - (4) The minimum setback from internal public streets shall be thirty feet (30') and from internal private driveways or streets the setback shall be established on the plan of development, but in no case shall it be less than ten feet (10').
 - (5) The minimum distance between any two principal buildings within the open space development shall be twenty feet (20'). Side yard dimensions on each individual lot shall be a minimum of ten feet (10') in depth and rear yard dimensions shall be a minimum of twenty feet (20') in depth. Accessory building locations and setbacks shall be governed by the provisions set out in Section 24.1-273 of this Chapter.
 - (6) Where flag lots are utilized, the "staff" portion shall be twenty feet (20') or greater in width.
- (d) *Open space requirements.*
- (1) No less than forty percent (40%) of the gross area of an open space development shall be reserved as common open space, including recreational space, which shall be maintained for the benefit of the residents of the development. Golf courses may be counted as open space for the purpose of meeting this requirement to a maximum of thirty percent (30%) of the required open space. In addition, in the event the developer of a proposed open space development dedicates or willingly sells to the County land from the parent tract for the purpose of development of one or more of the following community-enhancing public facilities, the land area involved in such transaction shall be creditable on an acre for acre basis toward the open space requirement for the project, to the extent that such credit does not exceed fifty percent (50%) of the amount of open space that would otherwise be required for the development. Land intended by the County for use as one or more of the following purposes shall be eligible for such credit:
 - school
 - park
 - recreation center (indoor or outdoor)
 - community center
 - library
 - such other facility as the Zoning Administrator determines to be materially similar.

The identification of such land and conveyance of the subject property to the County shall occur prior to or contemporaneously with the approval of the construction plans (Development Plans) for the proposed residential project. Nothing in this section shall be deemed to supersede the provisions of Section ~~15.2-2232~~~~15.1-456~~ of the Code of Virginia which require that the location of public facilities be found to be substantially in accord with the adopted Comprehensive Plan.

- (2) All areas not included in lots or street rights-of-way shall be incorporated into common open space.
 - (3) The common open space shall be arranged and designed so as to facilitate its use, ensure continuity of design, and preserve sensitive environmental features. Failure to achieve these goals shall be sufficient reason for the zoning administrator to deny applications for open space development plan approval or to require modifications which may include loss of lots.
- (e) *Recreational space requirements.*
- (1) Recreational space equivalent to no less than seven and one-half percent (7.5%) of the gross land area shall be provided and shall be suitable, as determined by the zoning administrator, for recreation purposes and the development of recreational facilities which are appropriate to the size, scale, and market orientation of the development. Recreation areas shall not abut the exterior boundary of the open space development.
 - (2) Within the recreation space shall be developed, at a minimum, an open play field, a playground or tot lot, and a picnic area, all of which shall be located, sized and scaled in proportion to the development.
 - (3) The zoning administrator may modify the requirement for recreational space in any manner deemed appropriate or necessary for the purpose of ensuring that adequate recreation facilities are available to serve the development given its size, scale, and market orientation.
 - (4) Adequate pedestrian and bicycle facilities shall be provided which fully interconnect the development and its recreation areas both internally and with existing and planned external pedestrian and bicycle facilities.
- (f) Applications for open space developments shall be made in the same manner as prescribed for conventional subdivisions in the county subdivision ordinance.
- (g) Final plats recorded for an open space development utilizing the cluster technique and all deeds for lots within such development shall bear a statement indicating that the land is within an approved residential open space (cluster) subdivision and shall also bear a statement indicating the ownership status of the development's open space system and shall reference the covenants creating a prop-

property owners association which shall also be recorded at the time final plats are put to record.

- (h) Development density may be increased if recreation area in excess of the seven and one-half percent (7.5%) prescribed by the subdivision ordinance is provided and developed. Density increases shall be limited to a maximum of ten percent (10%) and shall be granted in increments of one percent (1%) for each additional two percent (2%) increment of recreation space.

The proposed active recreation facilities shall be approved by the zoning administrator as being appropriate to the size and market orientation of the development and shall either be constructed or guaranteed for construction through an agreement and surety acceptable to the county attorney prior to the platting of any lots over fifty percent (50%) of the total number authorized in the open space subdivision.

Sec. 24.1-404. Standards for multi-family dwellings.

All multi-family development shall comply with the following standards. Evidence of compliance shall be demonstrated through preparation of a site plan in accordance with all requirements of article V.

- (e) The development shall be surrounded by a perimeter buffer area of at least fifty feet (50') ~~[15m]~~ in width which shall be landscaped, in accordance with the provisions of article II, division 4 of this chapter, to ~~achieve a landscaping ratio of at least one tree, either existing or newly planted, for each five hundred (500) square feet [45m²] of buffer area~~ meet the Type 50 Transitional Buffer standards.

Sec. 24.1-411. Standards for Senior Housing (Housing for Older Persons)

- (e) The development shall be surrounded by a perimeter buffer area of at least fifty feet (50') in width which shall be landscaped, in accordance with the provisions of article II, division 4 of this chapter, to ~~achieve a landscaping ratio of at least one tree, either existing or newly planted, for each five hundred (500) square feet of buffer area~~ meet the Type 50 Transitional Buffer standards.

Sec. 24.1-457. Standards for firing ranges and outdoor paintball ranges.

- (a) With the exception of paintball ranges, only completely enclosed indoor firing ranges are permitted. Outdoor paintball ranges may be permitted. No outdoor firing lines shall be permitted in conjunction with such uses.
- (b) No structure except screening fences and identification signs used for firing ranges shall be located closer than one hundred feet (100') ~~[30m]~~ to any residential lot line.
- (c) The protection of adjacent properties shall be assured by proper design, location, and orientation of structures, backstops, and firing lines. Outdoor paintball ranges shall be enclosed by security fencing or other means adequate to delineate the boundaries of the range. No part of an outdoor paintball range may be located within 300 feet of an occupied residentially zoned property, or such greater distance as may be required as a condition of a special use permit.
- (d) The range shall be designed so that no range noise is audible at the property line. Documentation certified by an architect and professional engineer to this effect shall be submitted with site and building plans.

DIVISION 10. BUSINESS AND PROFESSIONAL SERVICE USES (CATEGORY 11)

Sec. 24.1-470. Standards for all business and professional service uses.

- (a) All off-street parking and loading space for business and professional services shall be located not less than twenty-five feet (25') ~~[7.5m]~~ from any residential property line and shall be effectively screened from view from adjacent residential properties by landscaping, supplemented, as necessary, by appropriate fencing materials. This setback/screening requirement shall also apply to all circulation drives serving the business/professional service.
- (b) When located in or adjacent to a residential area, the external appearance and arrangement of such facility shall be of a form, character, appearance and arrangement fully compatible with the residential area.
- (c) Outdoor lighting shall be sufficient to protect public safety; however, it shall be directed away from property lines and rights-of-way and shall not cast unreasonable or objectionable glare on adjacent properties and streets.
- (d) Outdoor speaker or paging systems shall be directed away from property lines and shall be designed to prevent objectionable noise levels on adjacent properties or streets.

- (e) Appropriate and adequate facilities for accommodating bicycle parking and other alternative transportation modes shall be provided which are safe, secure, and convenient.

DIVISION 17. COMMON OPEN SPACE AND COMMON IMPROVEMENT REGULATIONS

Sec. 24.1-496. Applicability.

The regulations set forth in this division shall apply to the following features (referred to in this article as "common areas") in any development, except for timeshare resorts that comply with the requirements of section 24.1-472, where such features are proposed to be held in common ownership by the persons residing in or owning lots in the development:

- (a) All lands in common open space, not a part of individual lots, designed for the mutual benefit of persons residing in or owning lots in the development, whether or not such lands are required by the provisions of this chapter; and
- (b) All private streets, driveways, parking bays, drainage facilities, lakes, uses, facilities and buildings or portions thereof, as may be provided for the common use, benefit and enjoyment of the occupants of the development, whether or not such improvements are required by the provisions of this chapter.

Sec. 24.1-497. Declaration of covenants and restrictions.

Whenever a development includes common areas as described in section 24.1-496, the developer shall provide for and establish a nonprofit incorporated property owners association, or other legal entity under the laws of Virginia, for the ownership, care and maintenance of all such common areas.

- (a) Such association shall be governed by a declaration of covenants and restrictions (referred to in this section as the "declaration") running with the land and shall be composed of all persons having ownership within the development. Such association shall be responsible for the perpetuation, care, and maintenance of all common areas.
- (b) The covenants must provide that membership in the association by property owners shall be mandatory, and the association shall have the authority to, and shall assess its members for, such maintenance and improvements as set forth in the instrument creating the association, or as its members deem appropriate.
- (c) Voting membership in the association shall, in the case of a residential subdivision, be comprised of a single class, with the owners of lots casting one (1) vote per lot owned. In the case of a non-residential development, voting rights shall

be clearly stipulated in the declaration. In no case shall the developer of a residential development control the association beyond ten (10) years of the first lot being conveyed to a person or entity other than the developer.

(d) The declaration shall:

- (1) Describe and identify all common areas as to location, size, use and control.
- (2) Set forth the method of assessment for the maintenance of the common areas.
- (3) Control the availability of the common areas, ensure that land, facilities and other areas set aside for open space or common use may not be developed or used for an unapproved purpose in the future, and ensure that the common areas are maintained in their intended function in perpetuity unless and until the board by ordinance, authorizes and approves revisions.
- (4) Set forth the schedule under which the developer must convey common property and facilities to the association. Such conveyance shall generally occur within thirty (30) days of completion of the facility unless otherwise stipulated in the declaration.
- (5) Provide that the association shall not be dissolved nor shall such association dispose of any common areas by sale or otherwise, except to an organization conceived and organized to own and to maintain the common areas, without first offering to convey the same to the county or other appropriate governmental agency in exchange for compensation in an amount not exceeding the appraisal of a mutually acceptable appraiser.
- (6) State that all covenant conditions required by this section shall remain in full force and effect unless the board of supervisors shall consent to an amendment of the declaration, or the county attorney shall verify that the requested amendment comports with the requirements of this section terminated in the manner set forth above.

- (e) The declaration shall provide a clearly defined procedure for the county to ensure a remedy in the event the association or any successor organizations, shall at any time after the establishment of the development fail to maintain the common areas in reasonable order and condition in accordance with the plans approved by the County.

Sec. 24.1-498. Submission requirements.

- (a) Before a developer establishes a nonprofit organization as provided in section 24.1-497 above, the following documents shall be submitted to the county:

- (1) The articles of incorporation or other documents which will establish or create the nonprofit property owners association.
 - (2) The proposed declaration of covenants and restrictions.
 - (3) The proposed bylaws of the association.
- (b) The developer shall submit to the county, along with the required articles of incorporation (or similar documents) and declaration of covenants and restrictions, a certification by an attorney licensed to practice law in the Commonwealth of Virginia that the attorney has reviewed such documents and that they comply with:
- (1) the requirements of this article, and identifying where each requirement of section 24.1-497 is addressed;
 - (2) if applicable, the provisions of the Virginia Property Owners Association Act, section 55-508, et seq., Code of Virginia; and
 - (3) if applicable, the provisions of the Virginia Subdivided Land Sales Act of 1978, sections 55-336, et seq., Code of Virginia.

The attorney shall also certify that the common areas, when conveyed to the association, will be conveyed without encumbrances or liens, other than easements for public utilities, and such other similar encumbrances as may be specifically identified in the declaration.

- (c) The county attorney shall review and approve for consistency with the requirements of this article the certification submitted in conformance with subsection (b) above, and the articles of incorporation (or similar documents) and the declaration of covenants and restrictions. The county attorney's approval shall be evidenced by signature on the documents submitted for recordation.
- (d) Any proposed amendments to the articles of incorporation or declaration of covenants and restrictions or actions that would establish encumbrances on the common area shall be submitted to and reviewed by the county attorney to ensure compatibility with the terms of this article. The county attorney's approval shall be evidenced by signature on the documents.

ARTICLE VI. OFF-STREET PARKING AND LOADING

Sec. 24.1-606. Minimum off-street parking and loading requirements.

Off-street parking spaces and loading spaces shall be provided in accordance with the minimum standards set forth in the following tables. These standards prescribe the minimum amount of parking and loading space that must be provided in conjunction with various uses and nothing shall prohibit the installation of more than the required minimums, provided however, that an additional twenty (20) landscape credits shall be provided/earned on the site for every ten (10) spaces in excess of the minimum number. Such additional landscaping shall be installed in the parking lot or around its perimeter

(a) Category 1 - *Residential and related uses.*

USE	OFF-STREET PARKING SPACES	OFF-STREET LOADING SPACES
(1) Dwelling: single-family detached & duplex	Two (2) spaces per unit	None.
(2) Dwelling: single-family attached (townhouse & multi-plex)	Two (2) spaces per unit; plus One (1) space per three (3) units for visitor parking	None.
(3) Dwelling: multi-family	One and one-half (1.5) spaces per unit; plus One (1) space per three (3) units for visitor parking.	None.
(4) Manufactured Home on individual lot	Two (2) spaces per unit.	None.
(5) Manufactured Home Park	Two (2) spaces per unit; plus One (1) space per three (3) units for visitor parking.	None.
(6) Rooming, Boarding, Lodging House, Bed and Breakfast, Tourist Home	Two (2) spaces; plus One (1) space per each sleeping room.	None.
(7) Group Home	Three (3) spaces, plus One (1) space per each two (2) beds:	None
(8) Senior Housing – Independent Living Facility	One (1) space per unit; plus one space per six (6) units for visitor parking	None
(9) Senior Housing – Congregate Care Facility, Assisted Living Facility	One (1) space per two (2) units; plus one space per six (6) units for visitors	None

(f) Category 6 - *Institutional Uses*

USE	OFF-STREET PARKING SPACES	OFF-STREET LOADING SPACES
(1) Church, temple, synagogue or similar place of worship	One (1) per each four (4) fixed seats in main assembly area; <u>plus or</u> One (1) space per each sixty (60) square feet of assembly area without fixed seats, <u>whichever is greater.</u>	None
(2) Hospital	One (1) space per every two (2) patient beds; plus One (1) space for every 350 square feet of administrative office space	One (1) space; plus one (1) for every loading dock/bay

(3) Nursing Home	One (1) space for every two (2) patient beds	One (1) space
(4) Emergency / First Care Clinic	Two (2) spaces per examining room; Plus One (1) space per 350 square feet of office/administrative space	None

(i) *Category 9 – Recreation and Amusement Uses*

USE	OFF-STREET PARKING SPACES	OFF-STREET LOADING SPACES
(1) Theater - indoor	Stand-alone: One (1) space per four (4) seats. In Shopping Center: One (1) space per eight (8) seats.	None
(2) Bingo Hall	One (1) space for each four (4) fixed seats or for each sixty (60) square feet of open assembly area	None
(3) Bowling Alley	Seven (7) spaces per lane; plus One (1) space per 100 square feet of restaurant and lounge space.	One (1) space
(4) Marinas, dry-stack boat storage facility	One (1) space per five (5) berths; plus One (1) space per 500 square feet of dry boat storage area; plus Two (2) spaces for every house boat mooring space. <i>and, in no event, less than twenty (20) spaces for any marina having an accessory restaurant</i>	One (1) space.
(5) Country clubs, golf courses	One (1) space per 400 square feet of floor area in meeting rooms, lounges or similar assembly area; plus Five (5) spaces per golf hole	None
(6) Indoor Amusement Centers, Arcades, etc.	One (1) space for every 200 square feet of gross floor area	None
(7) Golf Driving Range	Three (3) spaces; plus One (1) space per tee	None
(8) Recreational or amusement establishments other than those specifically listed above	One (1) space per four (4) seats for fixed-seat facilities; or, One (1) space for every four (4) persons capacity based on the maximum occupancy load for the facility;	One (1) space if food or beverage services are offered

ARTICLE VII. SIGNS

Sec. 24.1-706. Off-premises directional signs.

- (a) The zoning administrator may authorize, by permit, the installation of off-premises directional signs for churches, civic organizations, governmental func-

tions, hospital-based emergency centers and similar activities or establishments, subject to the following findings and conditions:

- (1) The location of the use to which the sign pertains prevents adequate identification by such signs as are normally permitted.
- (2) The function of such signs shall be limited to directional or identification purposes.
- (3) The location of such signs shall be consistent with the uses existing or permitted on the site of such sign. A written authorization from the owner of the property on which such sign is proposed to be located or a recorded easement permitting the placement of the sign shall be submitted to the zoning administrator at the time of application for necessary permits.
- (4) Such signs shall be limited to a subject to the maximum area of eight (8) square feet and a maximum height of six (6) feet standards established in section 24.1-703 and shall comply with all other applicable provisions of this article. Not more than three (3) such signs shall be permitted for any single use. All off-premises directional signs, except those permitted under section 24.1-706(b) below, shall have a background color of green, blue or brown with white letters.

Sec. 24.1-710. Prohibited signs.

Unless specifically stated otherwise, the following signs shall not be permitted in the county:

- (a) Signs with moving, revolving or rotating parts, optical illusions of movement, mechanical movement of any description, or other apparent movement achieved by electrical, electronic, mechanical or natural means, but not including time, temperature and date signs, and traditional barber poles.
- (b) Signs with lights which flash, move, rotate, blink, flicker, or vary in either intensity or color.
- (c) Moored balloons or other floating signs that are tethered to a structure or the ground.
- (d) Pennants.
- (e) Portable signs, except those used in the specific instances authorized by permit by the terms of section 24.1-704. This provision shall not be construed to prohibit signs of reasonable size and proportion as determined by the zoning administrator, painted on or attached to automobiles, trucks, buses, trailers or other vehicles which are used in the normal course of business. It shall, however, be

construed to prohibit the parking of vehicles or trailers on which signs are hung, or otherwise attached, when such parking is for display purposes intended to circumvent the provisions of this chapter. The removal of wheels and chassis assemblies from a portable message board sign with the intent of mounting it on posts shall not be sufficient to cause the sign to be permitted as a freestanding or wall sign.

- (f) Any sign which by reason of position, shape or color may interfere with, be confused with, or obstruct the view of any traffic sign, signal or device.
- (g) Advertising signs.

BE IT FURTHER ORDAINED that the York County Code be, and it is hereby, amended to add a new Chapter 23.2 entitled “Chesapeake Bay Preservation Areas” to read as follows:

Chapter 23.2

Chesapeake Bay Preservation Areas

Section 23.2-1. Statement of intent.

In accordance with the objectives of the comprehensive plan, and pursuant to the authority of Section 10.1-2100 et seq. of the Code of Virginia, this chapter is established and intended to promote the proper use, management and protection of the vast amounts of sensitive and unique lands which contribute to the economy of the region and the environmental quality of the county and especially the Chesapeake Bay. Specifically, these provisions are intended to implement the requirements of the Chesapeake Bay Preservation Act and to address the following objectives:

- (a) Protect existing high quality state waters;
- (b) Restore all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them;
- (c) Safeguard the clean waters of the Commonwealth from pollution;
- (d) Prevent any increase in pollution;
- (e) Reduce existing pollution; and
- (f) Promote resource conservation in order to provide for the health, safety, and welfare of the present and future citizens of the county.

The effect of these provisions is not necessarily to preclude development or use of such areas but rather to ensure that the types of development permitted by the underlying zoning district will be undertaken with a deliberate and professionally responsible recognition of the particular environmental qualities and conditions of a proposed development site.

23.2-2. Definitions

For the purposes of this chapter, the following terms shall have the following meanings unless the context clearly indicates otherwise:

Buffer Guidelines. Guidelines established in accordance with section 23.2-5 below that provide guidance concerning permissible activities within the resource protection area buffer.

Best management practices (BMPs). A practice, or a combination of practices, that is determined by a state agency or the Hampton Roads Planning District Commission to be the most effective, practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

CBPA Manager. The County Administrator, or his designated agent, who shall be responsible for certain reviews, analyses and decisions as specified in this chapter.

Chesapeake Bay Board, York County. The York County Chesapeake Bay Board shall be comprised of the members of the York County Wetlands Board as established by Chapter 23.1 of the County Code.

Chesapeake Bay Preservation Area (CBPA). Any land designated by the county pursuant to the Chesapeake Bay Preservation Area Designation and Management Regulations, (9 VAC 10-20-70 et seq.), and sections 10.1-2107, et seq., Code of Virginia of the Chesapeake Preservation Act, as they may be amended from time to time. The Chesapeake Bay Preservation Area consists of a Resource Protection Area (RPA) and a Resource Management Area (RMA).

Chesapeake Bay Preservation Area Map (CBPA Map). A map to be used as a guide that shows the general location of CBPA areas. The map is on file in the office of the CBPA Manager and is hereby adopted by reference and declared to be part of this chapter. The Natural Resources Inventory will determine the exact boundaries of the CBPA.

Development. Any man-made change to improved or unimproved real estate including but not limited to buildings or other structures, excavating, mining, filling, grading or paving.

Development review process. The process for site plan, subdivision, land disturbing and building permit review to ensure compliance with section 10.1-2109, Code of Virginia and the York County Code, prior to any clearing or grading of a site or the issuance of a building or land disturbing permit.

Floodplain. All lands which likely would be inundated by floodwater as a result of a storm event of a 100-year return interval.

Impervious cover. A surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to: roofs, buildings, decks, streets, parking areas, and any concrete, asphalt, or compacted aggregate surface.

Intensely developed area (IDA). CBPAs where development is concentrated and meets the conditions outlined in 9VAC 10-20-100 and so indicated on the CBPA map adopted by the Board of Supervisors and approved by the Chesapeake Bay Local Assistance Board.

Nonpoint source pollution. Pollution consisting of constituents such as sediment, nutrients, and organic and toxic substances from diffuse sources, such as runoff from agricultural and urban land use and development.

Nontidal wetlands. Those wetlands, other than tidal wetlands, that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the US Environmental Protection Agency pursuant to Section 404 of the Federal Clean Water Act in 33 CFR 328.3b, as may be amended from time to time.

Noxious weeds. Weeds that are difficult to control effectively such as Johnson Grass, Kudzu, and multiflora rose.

Public Road. A publicly owned road and the appurtenant structures designed and constructed by the Virginia Department of Transportation.

Redevelopment. The process of developing land that is or has been previously developed.

Resource Management Area (RMA). That component of the Chesapeake Bay Preservation Area that is not classified as the Resource Protection Area or the Intensely Developed Area. The RMA is contiguous to and 500-feet landward of the Resource Protection Area or the extent of the 100-year floodplain, whichever is greater.

Resource Protection Area (RPA). That component of the Chesapeake Bay Preservation Area comprised of tidal wetlands; nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow; tidal shores; and a vegetated buffer not less than 100-feet in width located adjacent to and landward of the components listed above and along both sides of any water body with perennial flow. These lands have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts, which may result in significant degradation to the quality of state waters.

Silvicultural Activities. Forest management activities, including but not limited to the harvesting of timber, the construction of roads and trails for forest management purposes, and the preparation of property for reforestation that are conducted in accordance with the silvicultural best management practices developed and enforced by the State Forester pursuant to Section 10.1-1105 of the Code of Virginia and are located on property defined as real estate devoted to forest use under Section 58.1-3230 of the Code of Virginia.

Tidal shore (shore). Land contiguous to a tidal body of water between the mean low water level and the mean high water level.

Tidal wetlands. Vegetated and nonvegetated wetlands as defined in Section 28.2-1300 of the Code of Virginia.

Water Body with Perennial Flow. A body of water flowing in a natural or manmade channel year-round during a year of normal rainfall. This includes, but is not limited to, streams, estuaries, and tidal embayments and may include drainage ditches or canals constructed in wetlands or from former natural drainage ways, which convey perennial flow. Lakes and ponds, through which a perennial stream flows, are a part of the perennial stream. Generally, the water table is located above the streambed for most of the year and groundwater is the primary source for stream flow.

Water-dependent facility. A development of land that cannot exist outside of the Resource Protection Area and must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include, but are not limited to, ports, the intake and outfall structures of power plants, water treatment plants, sewage treatment plants, and storm sewers; marinas and other boat-docking structures; beaches and other public water-oriented recreation areas; and fisheries or other marine resources facilities.

Wetlands. Includes tidal and nontidal wetlands.

23.2-3 Applicability.

The special provisions established in this chapter shall apply to the areas designated by the Board of Supervisors as Chesapeake Bay Preservation Areas (CBPA) composed of Resource Protection Areas (RPA), Resource Management Areas (RMA) and Intensely Developed Areas (IDA). Such areas are designated, in general, on the CBPA Map, which is hereby adopted and made a part of this chapter by reference. The CBPA Map shows only the general location of the Chesapeake Bay Preservation Areas. It should be consulted by persons contemplating activities within the county prior to engaging in a regulated activity; however, the specific onsite location of the Chesapeake Bay Preservation Areas shall be delineated by the Natural Resources Inventory as required by section 23.2-6, below.

23.2-4. Use regulations.

Permitted uses, special permit uses, accessory uses, dimensional standards and special requirements shall be as established by the underlying zoning district, as established by Chapter 24.1, Zoning, of this Code.

23.2-5. Policies and Guidelines for Administering Chesapeake Bay Preservation Areas.

The CBPA Manager shall prepare such policies and guidelines not inconsistent with this chapter as may be necessary to ensure the proper use, management, and protection of the designated Chesapeake Bay Preservation Areas. Such policies and guidelines shall be subject to approval by the Board of Supervisors, shall be kept on file in the CBPA Manager's office and may be amended by resolution of the Board from time to time as conditions warrant. In the event situations arise that necessitate adjustments or supplements to such policies, the CBPA Manager may promulgate interim guidelines. Such interim guidelines shall be submitted to the Board of Supervisors within 180 days after establishment and shall stand until the Board actually approves, disapproves or modifies such interim guidelines.

23.2-6. Natural Resources Inventory requirements.

Natural Resources Inventory: An inventory of site conditions and environmental features, prepared and submitted in accordance with the provisions established herein, shall be required for all properties proposed for development.

- (a) The inventory shall be prepared and certified by a professional qualified to perform environmental inventories. Evidence of the professional qualifications of the person preparing the inventory shall be submitted as a part of the inventory. In the case of construction of individual single-family detached dwellings, the inventory shall be required; however, professional preparation or certification shall not be required except for perennial stream flow determination or unless professional involvement is deemed necessary by the CBPA Manager because of the magnitude of land disturbance or the particular sensitivity of the location. Subdivisions effected through the Subdivision Ordinance shall comply fully with the terms of this chapter.
- (b) The inventory shall contain a plan sheet that clearly depicts the extent and location of any of the following features: manmade and natural bodies of water including but not limited to rivers, creeks, streams, channels, ditches, lakes and ponds; floodplains; tidal and nontidal wetlands; and tidal shores.
- (c) The applicant is responsible for having a site-specific in-field determination for perennial flow made by a qualified professional. The CBPA Manager shall confirm the site-specific in-field perennial flow determination. For the purpose of determining whether water bodies have perennial flow, a state approved, scientifically valid system of in-field indicators of perennial flow must be used.

- (d) The inventory shall contain a classification of any wetlands present on the site. Wetlands delineations shall be performed in accordance with the comprehensive onsite determination method specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, 1987, as it may be amended from time to time.
- (e) The exact boundaries of the RPA and RMA shall be adjusted, as necessary, based on the site-specific in-field evaluation and the Inventory and shall be depicted on the plan.
- (f) The Inventory shall be submitted to the CBPA Manager for review and approval prior to or concurrent with the submission of applications for site plans, subdivision plans, land disturbing permits, building permits or any other activity that constitutes development. The CBPA Manager shall not approve the submitted documents unless the site conditions and environmental features inherent on the site have been identified as deemed appropriate by the CBPA Manager.

23.2-7 Special performance standards.

Proposed development or redevelopment within Chesapeake Bay Preservation Areas shall be planned and undertaken in accordance with the following standards, depending on the type(s) of natural features and resources present on the site:

- (a) All provisions of chapter 23.1, Wetlands, County Code, shall be observed where applicable.
- (b) All construction within flood plain areas shall be in accordance with the requirements of section 24.1-373 of the County Code, the Uniform Statewide Building Code and any special requirements of the National Flood Insurance Program applicable to such area.
- (c) *Lot size.* Lot size shall be subject to the requirements of the underlying zoning district(s), provided, however, that any newly created lot shall have sufficient area outside the RPA within which to accommodate the intended development in full accordance with the performance standards in this chapter so that no land disturbance will occur in the RPA, except for such development otherwise specifically allowed in the RPA by this chapter. On newly created lots, principal buildings shall be located at least ten (10) feet from the RPA buffer.
- (d) *RPA Boundary Delineation:* The boundary of the RPA shall be delineated by temporary construction fencing on any development site subject to the provisions of this chapter. In addition the property owner/developer shall be responsible for posting permanent signage identifying the landward limits of the RPA. The signs will be provided by the County and shall be posted at such locations as are approved by the County and identified on the site development plan.

- (e) No more land shall be disturbed than is necessary to provide for the proposed use or development.
- (f) All land development shall minimize impervious cover consistent with the proposed use or development.
- (g) Existing vegetation shall be preserved to the maximum extent practicable consistent with the use or development proposed.
- (h) Any activity which will cause more than 2,500 square feet of land disturbance, including construction of single-family houses and installation of septic tanks and drainfields, shall comply with the requirements of chapter 10, Erosion and Sediment Control and all other aspects of the county development review process.
- (i) Stormwater management criteria consistent with the water quality protection provisions (4VAC 3-20-10 et seq.) of the Virginia Stormwater Management Regulations (4 VAC 3-20), as they may be amended from time to time, shall be satisfied.

 - 1. For new development, the post-development nonpoint source pollution runoff load shall not exceed the predevelopment load, based on the Chesapeake Bay default value for phosphorus loading of 0.45 pounds/acre/year and an equivalent impervious cover of sixteen percent.
 - 2. For sites within IDA's or other isolated redevelopment sites, the existing nonpoint source pollution load shall be reduced by at least ten percent (10%). The CBPA Manager may waive or modify this requirement for redevelopment sites that originally incorporated best management practices for stormwater runoff quality control, provided, however, that in no case may the post-development nonpoint source pollution runoff load exceed the predevelopment load.
 - 3. Any maintenance, alteration, use or improvement to an existing structure which does not increase the impervious area nor degrade the quality of surface water discharge, as determined by the CPBA Manager, may be exempted from the requirements of this section.
- (j) The functionality and maintenance of best management practices shall be ensured by the owner or developer through a maintenance agreement, approved as to form by the county attorney, whereby the owner shall covenant to perform perpetual maintenance of any such BMP and grant authority to the county to perform such work at the owner's cost if the owner should default on his obligations. The owner or developer shall cause such agreement to be recorded by the clerk of the circuit court and provide evidence of such recordation to the CBPA Manager.

- (k) All on-site sewage soil absorption systems not requiring a Virginia Pollution Discharge Elimination System (VPDES) permit shall be pumped out at least once every five years or otherwise maintained in accordance with Section 18.1-40(f) of the County Code.
- (l) A secondary sewage soil absorption area with a capacity at least equal to that of the primary absorption area shall be provided for every lot proposed for development where public sanitary sewer is not available in accordance with Section 18.1-40(c) of the County Code. Building or construction of any impervious surface shall be prohibited on the area of all sewage disposal sites, including the secondary sewage soil absorption area, until the lot is served by public sewer.
- (m) Land upon which agricultural activities are being conducted, including but not limited to crop production, pasture, dairy and feedlot operations or lands otherwise defined as agricultural, shall have a soil and water quality conservation assessment conducted and approved in accordance with the CBPA Regulations (9VAC10-20-120.9), as may be amended from time to time.
- (n) Silvicultural activities in the CBPA are exempt from this chapter provided that silvicultural operations adhere to water quality protection procedures prescribed by the Virginia Department of Forestry in the “Virginia’s Forestry Best Management Practices for Water Quality” as may be amended from time to time.
- (o) Prior to initiating grading or other on-site development activities on any portion of a lot, all wetlands permits required by federal, state, and county laws and regulations shall be obtained and evidence of such submitted to the CBPA Manager.

23.2-8. Water Quality Impact Assessments (WQIA).

- (a) A water quality impact assessment (WQIA) shall be required for:

 - (1) Any proposed land disturbance, development or redevelopment activity within a RPA as permitted by this chapter;
 - (2) Any buffer modification, noncomplying use and development waiver, exception, exemption, allowable land development or encroachment as provided for in this chapter;
 - (3) Any development activity in the RMA as deemed necessary by the CBPA Manager due to the unique site characteristics or intensity of the proposed use or development.
- (b) The purpose of the WQIA is to:

 - (1) Identify the impacts of proposed land disturbance, development or redevelopment on water quality and lands in the RPA and other environmentally sensitive lands;

- (2) Ensure that where land disturbance, development or redevelopment does take place within the RPA and other sensitive lands, it will occur on those portions of the site and in a manner that will be least disruptive to the natural functions of the RPA and other sensitive lands;
 - (3) Provide documentation for requests for development approval or administrative relief from terms of this chapter when warranted and in accordance with the requirements contained herein; and
 - (4) Specify mitigation that will address water quality protection.
- (c) A WQIA shall include a narrative and site drawings that address the evaluation criteria and that depict, address and includes the following:
 - (1) Location of the components of the RPA;
 - (2) Location and nature of the proposed encroachment, noncomplying use or development waiver, exception, exemption, allowable land development or modification of the buffer area, including: type of paving material; areas of clearing; filling or grading; location of any structures, drives, or other impervious cover; and sewage disposal systems or reserve drainfield sites;
 - (3) Type and location of proposed best management practices and supporting calculations to mitigate any proposed encroachment and/or modification;
 - (4) Location of existing vegetation, including the number and type of trees and other vegetation in the buffer proposed to be removed to accommodate the encroachment, noncomplying use and development waiver, exception, exemption, allowable land development or modification, and number and type of trees to remain;
 - (5) Revegetation plan that supplements the existing buffer vegetation and specifies the proposed replacement vegetation in accordance with the Buffer Guidelines;
 - (6) Erosion and sediment control and construction sequencing; and
 - (7) A copy of all required permits from all applicable agencies necessary to develop the project or a status of the acquisition of each.
- (d) The WQIA shall be submitted to the CBPA Manager for review and approval concurrent with the submission of applications for review and approval of site plans, subdivision plans, applications for land disturbing activity permits, building permits, buffer modification, buffer encroachment, noncomplying use and development waiver, allowable land development, exemptions or exceptions.

- (e) Upon completing review of a WQIA the CBPA Manager will determine whether the proposed buffer modification, buffer encroachment, noncomplying use and development waiver, allowable land development, exemption, or application for a exception is consistent with the provisions of this chapter and make a finding based upon the following evaluation criteria:
- (f) The CPBA Manager may require additional mitigation where potential impacts have not been adequately addressed.

23.2-9. RPA buffer area requirements.

- (a) To minimize the adverse effects of human activities on the other components of the RPA, state waters, and aquatic life, a 100-foot wide buffer area of vegetation as described in the Buffer Guidelines shall be provided. The purpose of the buffer is to retard runoff, prevent erosion, and filter nonpoint source pollution from runoff and it shall be retained if present and established where it does not exist in accordance with the Buffer Guidelines.
- (b) For purposes of calculating the impact of the proposed development on water quality, the required 100-foot wide RPA buffer area shall be deemed to achieve a 75 percent reduction of sediments and a 40 percent reduction of nutrients.
- (c) Where land uses such as agriculture or silviculture within the area of the buffer cease and the lands are proposed to be converted to other uses, the full 100-foot wide buffer shall be reestablished. In reestablishing the buffer, management measures shall be undertaken to provide woody vegetation that assures the buffer functions set forth in this chapter. Reestablishment must be accomplished in accordance with the Buffer Guidelines, as may be amended from time to time.
- (d) Permitted modifications of the buffer area:

Existing woody vegetation may be removed to provide for reasonable sight lines, access paths, and shoreline erosion control best management practices, if authorized by the CBPA Manager, on a case-by-case basis, upon submittal of a WQIA documenting that the RPA buffer functions will be maintained and vegetation will be replaced.

- (1) Trees may be thinned and pruned for sight lines, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff in accordance with the Buffer Guidelines.
- (2) Any access path shall be constructed and surfaced so as to effectively control erosion and aligned to minimize tree removal and environmental impact.
- (3) For approved shoreline erosion control best management practices, trees and woody vegetation may be removed, necessary control techniques em-

ployed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice, applicable permit conditions or requirements and in accordance with the Buffer Guidelines.

(4) Dead or diseased trees or shrubbery may be removed pursuant to sound horticultural practice in accordance with the Buffer Guidelines.

(5) The following modifications to the buffer do not require a WQIA or plan approval if performed as described in the Buffer Guidelines:

a. Home landscaping such as pruning, mowing, mulching; and

b. Removal of noxious weeds provided they are replaced with vegetation equally suited for the growing environment and no land disturbance takes place.

(e) On land used for agricultural purposes, the agricultural buffer area shall be managed to prevent concentrated flows of surface water from breaching the buffer area and noxious weeds from invading the buffer area. Agricultural activities may encroach into the buffer area provided that the provisions of Virginia's Chesapeake Bay Preservation Area Designation and Management Regulations (Section 9 VAC 10-20-130.5b 1-5 and 10-20-120.9) as they may be amended from time to time, are met.

(f) Permitted encroachments into the buffer area:

(1) When the application of the RPA buffer would result in the loss of an adequate, as determined by the CBPA Manager, buildable area on a lot or parcel legally created prior to October 1, 1989, the CBPA Manager may permit an encroachment into the buffer area in accordance with following criteria:

a. Encroachments into the buffer area shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities. Detached accessory structures shall not be eligible for encroachment authorizations.

b. Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment, and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot.

c. The encroachment may not extend into the seaward 50 feet of the buffer area.

d. Encroachments into the buffer processed through an administrative review shall be subject to the findings required by subsection 23.2-

13 but without the requirement for a public hearing, such findings to be made instead by the CBPA Manager.

- (2) When the application of the buffer area would result in the loss of a buildable area on a lot or parcel recorded between October 1, 1989 and March 1, 2002, or on a lot or parcel legally created prior to January 1, 2004, and effected by a perennial stream determination, encroachments into the buffer area may be allowed through an administrative process in accordance with the following criteria:
 - a. The lot or parcel was created as a result of a legal process conducted in conformity with the County's subdivision regulations;
 - b. Conditions or mitigation measures imposed through a previously approved exception shall be met;
 - c. If the use of a BMP was previously required, the BMP shall be evaluated to determine if it continues to function effectively and if necessary the BMP shall be reestablished or repaired and maintained as required; and
 - d. The criteria of subdivision (f)(1) of this section shall be met.
- (g) Redevelopment within IDA's may be exempt from the RPA buffer requirement in accordance with the development review process, provided that the water quality standards found in section 23.2-7 Performance Standards, can be achieved.
- (h) Nothing contained herein shall be construed to prevent an RPA buffer area from being used to fulfill minimum open space standards required in chapter 24.1, Zoning, County Code.

23.2-10. Allowable Land Development in RPA

Land development may be allowed in the RPA, subject to CBPA Manager review and approval, only if it is one or more of the following:

- (a) Is a new or expanded water-dependent facility provided:
 - (1) It does not conflict with the comprehensive plan;
 - (2) It complies with the performance criteria set forth in this chapter;
 - (3) Any non-water-dependent component is located outside of the RPA; and

- (4) Access through the RPA to the water dependent facility will be provided with the minimum disturbance necessary. Where practicable, a single point of access will be provided.
- (b) Constitutes redevelopment outside of an IDA and there is no increase in impervious area in the RPA, no further encroachment in the RPA and all applicable erosion and sediment control and stormwater management criteria are observed.
- (c) Constitutes development or redevelopment within an IDA.
- (d) Is a new use established pursuant to subsection 23.2-9(f) or is an addition or alteration to a noncomplying structure allowed pursuant to section 23.2-12.
- (e) Is a road or driveway crossing not exempt under section 23.2-11, below, and which complies with the provisions of this chapter, provided further:
 - (1) The CBPA Manager makes a finding that there are no reasonable alternatives to aligning the road or driveway in or across the RPA.
 - (2) The alignment and design of the road or driveway are optimized, consistent with other applicable requirements, to minimize encroachment in the RPA and adverse effects on water quality.
 - (3) The design and construction of the road or driveway satisfies all applicable criteria of this chapter, including submission of a WQIA; and
 - (4) The CBPA Manager reviews the plan for the road or driveway proposed in or across the RPA in conjunction with a site plan, subdivision plan, and land disturbing or building permit application.
- (f) Is a flood control or stormwater management facility that drains or treats water from multiple development projects or from a significant portion of a watershed provided:
 - (1) The county has conclusively established that location of the facility within the RPA is the optimum location;
 - (2) The size of the facility is the minimum necessary to provide necessary flood control, stormwater treatment, or both;
 - (3) The facility must be consistent with a stormwater management program that has been approved by the Chesapeake Bay Local Assistance Board as a Phase I modification to the county's program;
 - (4) All applicable permits for construction in state or federal waters must be obtained from the appropriate local, state and federal agencies, such as the U.S. Army Corps of Engineers, the Virginia Department of Environ-

mental Quality, the York County Wetlands Board and the Virginia Marine Resources Commission;

- (5) Approval must be received from the County prior to construction; and
- (6) Routine maintenance is allowed to be performed on such facilities to assure that they continue to function as designed.
- (7) It is not the intent of this subsection to allow a BMP that collects and treats runoff from only an individual lot or some portion of the lot to be located within a RPA.
- (g) This chapter shall not be construed to prevent pre-existing structures damaged or destroyed as a result of a casualty loss beyond the control of the owner from being reconstructed within Chesapeake Bay Preservation Areas, unless otherwise restricted by County Code.

23.2-11. Exemptions in Resource Protection Areas (RPA)

- (a) Exemptions for public utilities, railroads, and public roads and facilities.
 - (1) Construction, installation, operation, and maintenance of electric, natural gas, fiber-optic, telephone transmission lines, railroads, and public roads and their appurtenant structures in accordance with regulations promulgated pursuant to the Erosion and Sediment Control Law (section 10.1-560, et seq., Code of Virginia) and the Stormwater Management Act (Section 10.1-603.1 et seq, Code of Virginia) or an erosion and sediment control plan and a stormwater management plan approved by the Virginia Department of Conservation and Recreation will be deemed to constitute compliance with this chapter. The exemption of public roads is further conditioned on the following:
 - a. Optimization of the public road alignment and design, consistent with other applicable requirements, to prevent or otherwise minimize encroachment in the RPA and adverse effects on water quality.
 - (2) Construction, installation, and maintenance of water, sewer, natural gas and underground telecommunications and cable television lines owned, permitted or both by a local government or regional service authority shall be exempt from the criteria in this part provided that:
 - a. To the degree possible, the location of such utilities and facilities shall be outside the RPA;
 - b. No more land shall be disturbed than is necessary to provide for the proposed utility installation;

- c. All construction, installation, and maintenance of such utilities and facilities shall be in compliance with all applicable state and federal requirements and shall be designed and conducted in a manner that protects water quality; and
 - d. Any land disturbance exceeding an area of 2,500 square feet shall comply with all erosion and sediment control requirements.
- (3) Water wells, passive recreation facilities such as publicly, community or homeowner association owned boardwalks, trails, and walkways, and historic preservation and archaeological activities located in the RPA may be exempted from the provisions of this chapter provided that it is demonstrated to the satisfaction of the CBPA Manager that:
 - a. Any required permits, except those to which this exemption specifically applies, have been obtained;
 - b. Sufficient and reasonable proof is submitted to establish that the intended use will not cause a deterioration in water quality;
 - c. The intended use does not conflict with nearby planned or approved uses; and
 - d. Any land disturbance exceeding an area of 2,500 square feet will comply with chapter 10, Erosion and Sediment Control, of this code.

It is not the intent of this subsection to exempt private boardwalks, trails or walkways on an individual lot from the requirements of this chapter.

23.2-12 Noncomplying use and development waivers.

The lawful use of a principal building or structure which existed on September 20, 1990, or which exists at the time of any amendment to this chapter, and which is not in compliance with the provisions of this chapter or such amendment thereto, may be continued in accordance with article VIII of chapter 24.1 of the County Code.

No alteration or expansion of any noncomplying structure shall be allowed except in accordance with the following:

- (a) The CBPA Manager may grant a noncomplying use and development waiver for legally existing principal structures on lots not in compliance with CBPA standards to provide for alterations and additions to such noncomplying structures provided that:
 - (1) There will be no increase in the nonpoint source pollution load;

- (2) Any development or land disturbance exceeding an area of 2,500 square feet complies with all erosion and sediment control requirements of chapter 10, Erosion and Sediment Control, of this code; and
 - (3) Accessory structures or additions to accessory structures shall not be authorized by noncomplying use and development waivers.
- (b) An application for a noncomplying use and development waiver shall be made to the CBPA Manager and shall include, for the purpose of proper enforcement of this section, the following information:
 - (1) Name and address of applicant and property owner;
 - (2) Legal description of the property and type of proposed use and development;
 - (3) A sketch of the dimensions of the lot or parcel, location of buildings and proposed additions relative to the lot lines, and boundary of the resource protection area;
 - (4) Location and description of any existing private water supply or sewage disposal system; and
 - (5) A WQIA, BMP plan and buffer restoration plan as deemed necessary by the CBPA Manager.
- (c) A noncomplying use and development waiver shall become null and void five (5) years from the date issued if no substantial work, as determined by the CBPA Manager, has commenced.
- (d) Noncomplying use and development waivers for legally existing principal structures processed through an administrative review of the application shall be subject to the findings required by subsection 23.2-13, such findings to be made by the CBPA Manager, but without the requirement for a public hearing.

23.2-13 Exceptions.

- (a) Requests for exceptions from the CBPA requirements of section 23.2-7, 23.2-8, 23.2-9, 23.2-10 and/or 23.2-11 shall be made by application to the York County Chesapeake Bay Board. The board shall identify the impact of the proposed exception on water quality and on lands within the RPA based on the natural resources inventory, mitigation measures and WQIA which complies with the provisions of this chapter and which shall be submitted by the applicant at the time of application.

- (b) No later than 60 days after receipt of a complete exception application, the Board shall hold a public hearing on the request. The board shall notify the affected public of any such exception requests and shall consider these requests at a public hearing advertised in accordance with the requirements of Section 15.2-2204 of the Code of Virginia, except that only one hearing will be required. Also when giving any required notice to the owners, their agents, or the occupants of abutting property and property immediately across the street or road from the property affected, the notice shall be given by first-class mail to the last known address as shown on the current real estate tax assessment book or records.
- (c) Exceptions to the CBPA requirements may be granted by the Chesapeake Bay Board provided that a finding is made that:

 - (1) The requested exception is the minimum necessary to afford relief;
 - (2) Granting the exception will not confer upon the applicant any special privileges that are denied to other property owners who are subject to these provisions and similarly situated;
 - (3) The exception is in harmony with the purpose and intent of the CBPA Act and is not of substantial detriment to water quality;
 - (4) The exception request is not based upon conditions or circumstances that are self-created or self-imposed;
 - (5) Reasonable and appropriate conditions are imposed, as warranted, that will prevent the allowed activity from causing a degradation of water quality; and
 - (6) Other findings, as recommended by the CBPA Manager and deemed appropriate by the board, are met.
- (d) The board shall review the application for a exception and the submitted natural resources inventory and WQIA and may grant a exception to the requirements provided the above findings are made.
- (e) In granting a exception, the board may impose reasonable and appropriate conditions as the board deems necessary to further the purpose and intent of this chapter and the Chesapeake Bay Preservation Act.

23.2-14 Applications for exceptions.

Applications for exceptions shall be made in writing and shall include the following:

- (a) Name and address of applicant and property owner;
- (b) Legal description of the property and type of proposed use and development;

- (c) A sketch of the dimensions of the lot or parcel, location of the buildings and proposed improvements;
- (d) A Water Quality Impact Assessment completed in accordance with Section 23.2-8; and
- (e) A nonrefundable processing fee of \$250.00 shall accompany each application to cover the cost of processing.

23.2-15 Granting Exceptions

The Chesapeake Bay Board may grant exceptions as set forth herein. Exceptions granted by the board will become null and void if the proposed project is not completed within five years. The board shall make its determination within 65 days of the hearing; and if the board fails to act within this time frame the application shall be deemed to be approved.

23.2-16 Appeals

- (a) An owner of a property subject to an administrative decision, order or requirement under this chapter may appeal by submitting a written application for review to the Chesapeake Bay Board no later than 30 days from the rendering of such decision, order or requirement. The board shall hear the appeal as soon as practical after receipt of the application.
- (b) In rendering its decision, the board shall:
 - (1) Examine the language of this chapter to determine whether the language is clear or is subject to more than one interpretation;
 - (2) If, in the opinion of the board, the language is clear, the board will require the applicant to show that his case is not within the intent of the regulation. In these cases, the board will assume that the administrative decision is correct and the applicant will bear the burden of proof;
 - (3) If the language of this chapter is unclear, the board will inquire as to whether the decision made by the official involved is consistent with previous administrative determinations in similar situations;
 - (4) If the administrative decision is consistent with prior decisions, the applicant will prevail only if the administrative decision is not within the intent and purpose of the ordinance and, therefore, so arbitrary or unreasonable that the board must substitute its own interpretation and overturn the administrative decision. If the administrative decision is both consistent and reasonable, the board will uphold it;

- (5) If the administrative decision is inconsistent with prior decisions, the Board will carefully examine all factors involved to ensure that the appearance of an arbitrary decision is overcome by a legitimate attempt to further the intent and purpose of this chapter.

In applying these guidelines, the board will consider any pertinent factors that arise during the public hearing.

- (c) An owner of a property subject to a board decision, order or requirement may appeal to the Circuit Court.

23.2-15 Violations

- (a) Any person who engages in development or redevelopment within a CBPA or modifies the buffer within a RPA without first receiving approval for such activity as prescribed by this chapter shall be in violation of this chapter.
- (b) Any person who violates any conditions of an allowed encroachment, buffer modification, noncomplying use and development waiver, exception, exemption or allowable land development or exceeds the scope of any approval of any authorized activity or who fails to comply with any other provision of this chapter shall be in violation of this chapter.

23.2-16 Civil penalties

- (a) Any person who violates any provision of this chapter or violates, fails, neglects, or refuses to obey any county notice, order, rule, regulation, exception, or permit condition authorized under this chapter shall, upon such finding by an appropriate circuit court, be assessed a civil penalty not to exceed \$5,000 for each day of violation. Such civil penalties may, at the discretion of the court assessing them, be directed to be paid into the treasury of the county for the purpose of abating environmental damage to or restoring the CBPA therein, in such a manner as the court may direct by order, except that where the violator is the county itself or its agent, the court shall direct the penalty to be paid into the state treasury.
- (b) With the consent of any person who violates any provision of this chapter or violates, fails, neglects, or refuses to obey any county notice, order, rule, regulation, exception or permit condition authorized under this chapter, the county may provide for the issuance of an order against such person for the one-time payment of civil charges for each violation in specific sums, not to exceed \$10,000 for each violation. Such civil charges shall be paid into the treasury of the county for the purpose of abating environmental damage to or restoring the CBPA, except that where the violator is the county itself or its agent, the civil charges shall be paid into the state treasury. Civil charges shall be in lieu of any appropriate civil penalty that could be imposed under subdivision (a) of this sec-

tion. Civil charges may be in addition to the cost of any restoration required or ordered by the county.

BE IT STILL FURTHER ORDAINED that, in addition to any rights as may be vested by virtue of applicable law, any development proposal for which a complete site plan has been submitted to and accepted for review by the County by this date, or any development proposal for which an official pre-application conference has been conducted by the Department of Environmental and Development Services by this date, shall not be required to comply with the amended provisions adopted herein.

BE IT STILL FURTHER ORDAINED that the Board confirms its legislative intent that the York County Chesapeake Bay Board shall be comprised of the members of the York County Wetlands Board, and are hereby appointed as such, and that henceforth such board shall hear and decide all such matters as are assigned to it under the terms of Chapter 23.2 of the York County Code as hereby adopted, and that this ordinance shall be interpreted as an effective repeal of any ordinance provision to the contrary notwithstanding, provided, however, that any Chesapeake Bay Preservation Area matter that has previously been filed and advertised for action by the Board of Zoning Appeals shall remain within the jurisdiction of the Board of Zoning Appeals until the matter is concluded.